The Solicitors' Journal

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CURRENT TOPICS

State-Controlled Legal Service

IT is reassuring to have, from the lips of the ATTORNEY-GENERAL himself, and spoken directly to solicitors at The Law Society's Provincial Meeting at Blackpool on 23rd September, a statement that the new Legal Aid and Advice Act is to provide a national, but not a nationalised, service and that full protection of man's liberty can only be given if there is a strong legal profession and an independent judiciary, open not only to powerful people, but to the little man. A nationalised service, he said, would be inimical to the public interest, and impracticable in a democracy. The new Act had as its main object the removal of grounds for the grievances which might otherwise have been urged as justifying a nationalised legal service. There are two morals to be drawn from this statement, if it be accepted as correctly stating the position. One is that, however small the part played by the State in the provision of the new service, it will have to be watched vigilantly, for that will be the price of the independence of the profession and the freedom of the individual. Lawyers are only too familiar with the tendency of executive and administrative government to interfere in matters which they do not understand. The other moral is that it will be for the profession to do all in its power to make the Act a success, lest worse befall.

Solicitors' Remuneration

ALTHOUGH since the devaluation of the £ any sectional claim for early increases in pay becomes more than ever a matter not lightly to be undertaken, the position as regards solicitors is unique and deserves the country's sympathetic attention. All honour is due to the President of The Law Society, Mr. H. NEVIL SMART, in giving this matter renewed prominence in his presidential address to The Law Society's Provincial Meeting at Blackpool on 21st September, reported elsewhere in this issue (*post*, p. 611). In asking jocularly what would happen if members of the legal profession adopted a "go-slow" policy to secure increased remuneration, the President nevertheless exposed the error of those who glibly call The Law Society a powerful trade union. Strike action and similar tactics, as he said, are inconsistent with professional standards of duty and tradition. But inability to fight injustice by such means does not preclude the urging of legitimate demands in other ways without endangering the interests of clients, and this the Council is clearly determined to do. "While this injustice to us continues," declared the President, "we shall continue to be heard in protest."

Right of Public Meeting

AN important decision by the Vice-Chancellor (Sir LEONARD STONE) of the Chancery Court of Liverpool, on 19th September, dealt with the right of public meeting on the foreshore at Blackpool. The action was brought by the Blackpool Corporation against three members of the Communist party, for an injunction and a declaration that the defendants were liable for damages for trespass and/or nuisance. The defendants claimed that the rostrum was on a strip of land owned by the pier company and not the corporation. The plaintiffs claimed that the crowd overflowed on to corporation land. The Vice-Chancellor emphasised that it mattered not which political party's views were propounded at the meetings, the defendants were entitled to receive justice if they conducted themselves in an orderly manner. The Vice-Chancellor declined to grant an injunction or make a declaration, as he held that the infringement of the corporation's rights by the overflow was trivial. He was satisfied that it was accidental, and that the defendants took reasonable precautions to keep within the pier company's foreshore (cf. *Duncan* v. *Jones* [1936] 1 K.B. 218).

National Health Service: Legal Proceedings

GUIDANCE on the troublesome question of whom to name as defendants when an industry is nationalised and actionable rights accrue against units of the industry is always welcome to solicitors. A memorandum dated 15th September, 1949, issued by the Ministry of Health, contains detailed instructions to hospital boards and health committees covering this and other matters connected with legal proceedings where hospitals are involved, in regard to actions in respect of rights or liabilities accrued or incurred after the appointed day. Attention is drawn to s. 13 of the National Health Service Act, 1946, under which boards and committees are entitled to enforce any rights acquired, and are liable in respect of any liabilities incurred (including liabilities in tort), in the exercise of their functions, in all respects as if the board or committee were acting as a principal, and all proceedings for the enforcement of such rights and liabilities shall be brought by or against the board or committee in their own name. In cases where legal proceedings are threatened it is advised that the claimant's solicitor should be informed, if an opportunity occurs, of the view taken as to the correct defendant, but that where, through ignorance or otherwise, the Ministry is sued instead of the board or committee, the matter should, unless the plaintiff's solicitor is prepared to amend the

proceedings, be brought at once to the notice of the Ministry, as it will probably be necessary, in a High Court case, to issue a summons under R.S.C., Ord. XVI, for striking out the Ministry from the proceedings and substituting the appropriate board or committee.

Instruction of Solicitors for Defence

THE memorandum states that a hospital management committee will instruct solicitors, except possibly where a regional board employs a full-time solicitor or has dealt with the matter in its early stages. It also instances important types of case where it is appropriate for the solicitor to the Ministry of Health to act, or to be consulted, although the proceedings are in form by or against a board or committee. Authorities are authorised to see to the defence of nurses joined as defendants, but must refer cases to the Ministry where nurse defendants have acted outside the scope of their authority or for other reasons ought to be left to conduct their own defence. A doctor defendant will normally be represented by solicitors instructed by his defence organisation. It is stated that authorities are not authorised to undertake the defence of hospital doctors who may be sued in respect of alleged negligence and in the normal case should, if it is sought to make them liable for negligent acts of a doctor, take such steps as are open to them under the Law Reform (Married Women and Tortfeasors) Act, 1935, to obtain a contribution from him in respect of damages that may be recovered. Section 21 of the Limitation Act, 1939, which provides that action shall not be brought against public authorities except where commenced within one year of the event complained of, should not be relied on except with the approval of the Ministry.

Housing Act, 1949: Explanatory Circular

A TWENTY-NINE page memorandum (90/49) issued on 15th September, 1949, by the Ministry of Health to housing authorities and county councils (H.M. Stationery Office, price 6d.) will be of great value to solicitors who require guidance on the amendments to the Housing Act, 1936, the new provisions with regard to financial assistance for housing, and controls over the selling price and standards of new houses in the Housing Act, 1949. One of the main amendments of the Housing Act, 1936, is in s. 1, which deletes reference to the working classes in a number of sections so as, *inter alia*, to empower the authority to provide housing accommodation for all members of the community and to bring all houses within the ambit of the provisions in Pt. II of the Housing Act, 1936, relating to the repair, demolition and closing of insanitary premises. Other important amendments in ss. 4 and 5 provide that where authorities make loans for the acquisition, etc., of housing accommodation or give guarantees, (*a*) the limitations on the superficial area of the houses have been dropped; (*b*) where an advance is made by instalments as work progresses the limitation of the advance to 50 per cent. of the value of the work done has been dropped; (*c*) the borrower is given the right to repay the advance on any quarter-day after giving one month's notice of his intention; (*d*) the estimated freehold value of the house or flat in respect of which an advance may be made is raised from £1,500 to £5,000. Another amendment, in s. 8 (which is deemed always to have had effect), empowers local authorities to sell, or to supply under a hire-purchase agreement, furniture to the occupants of their houses and of houses provided by housing associations under arrangements with local authorities, and for that purpose to buy furniture. Section 11 enables a county court on the application of a person interested in the property to vary the terms of a lease or covenant so as to permit the conversion of a house into two or more dwellings on evidence that planning permission has been given for the conversion. Section 43 continues the control of the selling price and rent of houses built under licence until 20th December, 1953, by substituting eight years for four years in subs. (1) of s. 7 of the Building Materials and Housing Act, 1945.

Improvement Grants

THE Housing Act, 1949, was passed and came into operation on 30th July, 1949, and the Minister has drawn attention to the fact that grants will be payable by local authorities for approved schemes of improvement to houses carried out by private owners. The estimated cost of the work as approved by the local authority must not be less than £100 or more than £600 in respect of each resulting dwelling (this upward limit can be exceeded with the Minister's consent in individual cases, e.g., of houses of architectural or historical merit). A scheme must conform to the same standards of fitness and amenity as those set for the local authorities, and provide satisfactory accommodation for not less than thirty years. The amount of grant will not exceed one-half the approved estimated cost of work. Certain conditions must be observed for a term of twenty years. These include: the accommodation, unless occupied by the applicant or a member of his family, must be let or be available for letting; if the accommodation was not let during the five years previous to the improvements, the maximum rent will be fixed by the local authority; the only permissible increase of rent of dwellings previously let will be 6 per cent. of the cost of the improvement falling on the owner. For any breach of the conditions the owner may be called on to repay with compound interest a part of the grant proportionate to the extent to which the term of twenty years was unexpired at the date the breach occurred. No grants will be made in respect of "tied cottages" unless the owner is prepared to create a tenancy.

LEGAL PRACTICE IN SOUTH AFRICA: A SKETCH—II

(CONTRIBUTED)

(*Concluded from p. 593, ante*)

Peculiarities of Natal

To make the position clear, it is necessary to explain the peculiarities appertaining to the legal profession in Natal in some detail; it is felt that this should be done, as Natal is the province of the Union with a large majority of English-speaking inhabitants (natives and Indians excluded) and consequently most attractive to British practitioners who may contemplate qualifying and practising in South Africa. It is stressed that, because of these peculiarities, competition in practice is weighted against both barristers and solicitors from Britain for the greater part of their lives, unless now of an age not exceeding twenty.

1. "*The Dual Practice.*"—(A) Until 1932 there was nothing to prevent an attorney, on passing the appropriate examinations, from being admitted as an advocate (and vice versa) and practising thenceforth in both capacities. In 1932 this privilege was cancelled by the Natal judges by Rule of Court. Some few had acquired these qualifications and are entitled so to practise for life.

(B) Until 1932, by virtue of a Rule of Court made in 1845, when lawyers were scarce (only three in the province), an attorney was entitled, without further qualification, to appear before the Supreme Court (and an advocate might practise as an attorney). The Natal judges cancelled this privilege, with effect from a date in 1937, by a new Rule of Court made in 1932. They considered that the reasons for the old rule had lost their validity, and that its cancellation was in the public interest, as—

(i) it would lead to the elimination of a number of abuses that had come into existence;

(ii) Natal would thus be brought into conformity with the other provinces of the Union;

(iii) the growth of a junior Bar (until then non-existent) would be facilitated, and so lead to increased efficiency in the administration of justice.

A junior Bar had been an impossibility until then since attorneys appeared in court in all small matters, of the type that in England provide the young barrister with both his experience and his livelihood in his early years.

To an impartial observer, the reasons of the judges for this decision were unanswerable. Existing practitioners and articled clerks were even given five years to decide whether in the future they wished to practise as attorneys or advocates *without being required to acquire any further qualification*. Nevertheless, in consequence of political pressure, the Natal Advocates and Attorneys Preservation of Rights Act, 1939, was passed, upsetting the unanimous decision of the judges embodied in the 1932 rule to the extent that the former privileges were restored for life to all those who had formerly enjoyed them. Thus, there may still be practitioners with these privileges in 1990. In the meantime the junior Bar, which had begun to take shape in Natal, is in the doldrums.

2. *Conveyancers.*—Until 1926 a person, not being an attorney, could become a conveyancer, without serving articles, merely by passing one examination. In 1939 there were thirty-seven so qualified who then did one-third of the total conveyancing work of the province ; a considerable proportion of these are still in practice, and are entitled so to do for life. Almost without exception these conveyancers combine their practice with that of estate agency, in which respect they may freely advertise. A great part of what is in England the basis of the average solicitor's practice is thus taken away by persons whose initial training is scanty, and knowledge of the law somewhat restricted.

There are thus seven different classes of legal practitioners in Natal, as follows :—

(1) Attorneys and advocates—persons who acquired both qualifications before 1932.

(2) Attorneys (admitted or articled clerks in 1932 in Natal) entitled to appear as counsel.

(3) Advocates (admitted before 1932) entitled to practise as attorneys.

(4) Attorneys (admitted between 1930 and 1937 on the basis of qualifications obtained outside Natal)—*not* entitled to appear as counsel.

(5) Conveyancers only—qualified before 1926.

(6) Advocates only—admitted since 1932.

(7) Attorneys only—admitted since 1937.

Any attorney, as in the other provinces of the Union, may be either or both a conveyancer or a notary.

Qualifications to Practise—Bar and Side Bar

There is no equivalent to the scheme of legal education controlled in England by the Council of Legal Education. Consequently, the country has to fall back on academic qualifications as a standard of knowledge. A degree LL.B. of any South African university suffices to qualify for admission as an advocate. A barrister who has been called in England is entitled to be admitted if he has passed an examination in Roman-Dutch law and Statute Law of the Union prescribed by s. 2, Admission of Advocates Act, 1921 ; the taking of Roman-Dutch law as a subject in a number of overseas degrees, including the Bar Final, exempts from the Roman-Dutch part. Admission is by petition to the court similar to the case of attorneys. A fee (in Natal £50) is payable to the society of advocates of the province concerned.

The Side Bar

Provisions are similar to those relating to the admission of solicitors in England.

1. Articles—between three and five years (eighteen months if formerly an advocate, but none in the O.F.S. !).

2. Petition by " candidate attorney " as he is called, heard in open court for his admission as such.

3. Examinations—Attorneys Admission Part I, Attorneys Admission Part II, Book-keeping, Practical.

4. Admission—after hearing of another petition heard as above—on completion of articles and passing of all four examinations.

In Natal only, the taking of premiums on a candidate attorney being articled ranks as unprofessional conduct on the part of the principal.

A candidate attorney must be paid at least £15 per month after three years of his articles have expired, or after having passed both Parts I and II of the Attorneys Admission Examination, whichever event shall be the later ; and may then appear before the magistrate on behalf of his principal.

Admission as notary or conveyancer is obtained by an attorney following application in open court on petition as above after the appropriate examinations, neither of which is lengthy, have been passed.

English Solicitors

To be admitted as an attorney an English solicitor must—

(1) have been at least three years in practice *in England*, and

(2) have passed the special examination comprising two three-hour papers on Roman-Dutch law and two three-hour papers on the Statute Law of the Union, and

(3) pass the practical examination (of procedure in both contentious and non-contentious work).

Exemption from the practical examination : if applicant for admission has been in practise [*sic*] for the year immediately preceding his application for admission.

(Attorneys, Conveyancers and Notaries Admission Act, 1934, and regulations made thereunder.)

A solicitor who does not possess qualification (1) above must serve three years articles and pass the same examinations as any other candidate attorney. This is the position in Natal—in the other provinces it is similarly regulated by Rule of Court, and there may be differences.

Professional Societies and Examinations

Lastly, a few notes on these matters. Owing to the small numbers in the legal profession in South Africa—e.g., in 1932, in Natal, there were but sixteen advocates pure and simple, and 282 attorneys (thirty of whom had no right of audience in the Supreme Court)—the provincial law societies do little more than is done by provincial law societies in England, plus the checking of qualifications of entrants into the profession and the supply of library facilities. The societies do not act as registrars of solicitors (this function is performed by the registrars of the various provincial (not local) divisions of the Supreme Court) ; neither, what is more important, have these bodies any control over the standards of legal education, and examinations which admit to the profession. Further, there is no means of administering professional discipline save by bringing the attorney concerned before the Supreme Court in open court (there are no hearings " in chambers " in any matters as this term is understood in England).

The examinations are in the hands of a statutory body called " The Joint Committee for Professional Examinations " (which organises examinations for many other professions). This arrangement does not make for efficiency ; an *ad hoc* body of this type cannot have the interests of the profession at heart in the same way as examiners from the profession itself appointed and controlled by the profession. The present writer had the mortifying experience of having his examination postponed from the date fixed by regulation (after the required notice had been given) ; of being told, four weeks after the due date that examiners could not be found ; and of finally receiving seven days' notice to sit eight weeks after the due date (shortly after his annual holiday). To add insult to injury, the committee took just on seven weeks to issue the results of this examination of but three candidates. (At the next examination—five

candidates—over eight weeks passed before publication of the results.)

There is a central body—an association of law societies—which is the channel of approach of the legal profession to the Minister of Justice and other Government departments *apropos* matters affecting the legal profession of the country as a whole, or in connection with legislation.

In each province there is a society of advocates for each Bar similar in function to the Bar Council (but with no control over education or examinations). There has been recently formed a Bar Council for the whole Union to which the local societies are affiliated. At present its activities are not much greater than those of the association of law societies.

Costs

CONVEYANCING: SCALE OR DETAILED CHARGES

In these days of increased overhead expenses the scale remuneration for completed sales, purchases and mortgages is often inadequate, even with the addition of the 50 per cent. authorised by the General Order of 1944, and this is particularly so in the case of sales or purchases of small plots of land.

Rule 6 of the General Order made pursuant to the Solicitors' Remuneration Act of 1881 provides an alternative to scale remuneration. This rule states that " in all cases to which the scales prescribed in Sched. I hereto shall apply, a solicitor may, before undertaking any business, by writing under his hand, communicated to the client, elect that his remuneration shall be according to the present system, as altered by Sched. II hereto . . ." It will be recalled that the Order made under the Act of 1881 was kept alive, although the Act itself was repealed, by the Solicitors' Act, 1932, s. 82.

The requirement that the solicitor shall, in writing communicated to the client, give notice of his election " *before undertaking any business* " seems reasonably clear, although Lindley, L.J., in *Re Allen* (1887), 34 Ch. D. 433, at p. 445, described the words as obscure. The important point to watch here is that the notice must be given *before* undertaking any business, and it has the effect, of course, of turning what was intended as a benefit to solicitors into something in the nature of a gamble. It is not normally until the solicitor has embarked upon the preliminary stages of the business that he is able to appreciate the amount of the work which he will have to do in order to complete the matter, and by that time it will be too late to give the requisite notice.

One of the first questions to be determined, then, is at what point of time is the solicitor to be deemed to have undertaken the business. Some guidance is afforded in this respect by the case of *Re Allen, supra*. In this case the assigns of a lease were desirous of obtaining a renewal of the lease, and their solicitors wrote to the lessor for this purpose. The lessor saw his solicitor, who thereupon wrote to the assigns' solicitors informing them that he was instructed, and suggesting that he should be provided with an abstract of the marriage settlement and other documents in order to check the assigns' entitlement.

The abstract was provided and the solicitor for the lessor then, and before the draft lease was prepared, gave notice to his client that he proposed to base his charges on Sched. II of the Order, his contention being that according to the note to Pt. II of Sched. I of the Order the scale remuneration was to cover " preparing, settling and completing lease and counterpart," and that since nothing had so far been done in the preparation of the lease he was not out of time in giving the notice.

Kay, J., however, disposed of this point by observing that r. 2 of the Order of 1882 provided for the remuneration in respect of, amongst other things, business connected with leases, and that as soon as the solicitor had undertaken *any* work in connection with the lease, then he was debarred from making an election under r. 6. This being so, then the solicitor had undertaken the business when he wrote his first letter to the assigns' solicitors stating that he had been instructed and asking for an abstract. Kay, J.'s reasoning was approved by the Court of Appeal.

It might seem that the effect of this case may have been nullified by the decision of Kekewich, J., in *Re Baylis* [1907] 2 Ch. 54, to the effect that the lessors' solicitors' proper charges for investigating the entitlement of the persons seeking a renewal of a lease were chargeable in addition to the scale fee for the preparation and completion of the lease. The point involved, however, is entirely distinct. Kay, J., in *Re Allen*, observed that " after a solicitor has accepted employment and done work in it for his client for which he could charge him if the scale did not apply, he has undertaken the business, and it is too late for him to elect under r. 6."

In short, if the solicitor has undertaken the work for which a scale charge must ultimately be made, then he cannot elect under r. 6, notwithstanding that for some part of the work he will be entitled to item remuneration under Sched. II, as in *Re Baylis, supra*, and for the other part scale remuneration. The work for which item charges may be made is still work in respect of business connected with leases (see r. 2 of the General Order, 1882), and this point is admitted by Kekewich, J., in the *Baylis* case, at p. 60, where he observed that " the investigation of title, *although in one sense, of course, connected with the lease*, is not connected with the lease in that sense." It is connected with the lease in the sense that it is part of the business incidental or relating to the lease.

Several other cases may be cited, but they all tend to show that the solicitor must make his election under r. 6 very promptly after being instructed, and before doing anything whatever in relation to the business for which scale remuneration would afterwards be chargeable.

In the *Allen* case, cited above, the solicitor for the lessors no doubt had a fairly clear idea of the amount of work which would be involved in checking the entitlement of the assigns and preparing and completing the lease, but in the case, say, of the purchase of freehold property the purchaser's solicitor normally has nothing whatever to guide him as to the magnitude of the task involved in checking the title of the vendor, yet he must, even before he receives the contract, make his election since, following the reasoning in *Re Allen, supra*, he has undertaken the business as soon as he accepts the retainer and writes to the vendor's solicitor intimating that he is instructed and requesting a draft contract.

Even in the case of a vendor's solicitor who is aware of the amount of work involved in deducing the title, and who endeavours to provide for such work to be minimised by suitable provisions in the contract, which provisions are refused by the purchaser, it will again be too late to elect under r. 6, after the purchaser has refused to agree to the work being minimised (see *Hester* v. *Hester* (1887), 34 Ch. D. 607, where Kay, J., was again upheld by the Court of Appeal).

Experience shows that at the present time, in the majority of transactions for less than, say, £500, the scale remuneration will barely cover the work involved, and the solicitor, either for the vendor or purchaser, would benefit in the long run by giving notice of election under r. 6 in all of these cases. This is especially so where the sale is for a small sum and the solicitor negotiates the sale or purchase, for it will be remembered that in these cases The Law Society has expressed the view that where the solicitor has negotiated the sale or purchase, and also investigates or deduces the title, only one minimum fee, and not two, can be charged.

Thus, where a solicitor negotiates for and secures a sale of a plot of land for £150 and afterwards deduces the title and peruses and completes the conveyance, his total remuneration, at the present time, according to the scale, will be (*a*) for negotiating £2 5s., and (*b*) for deducing title, etc., £3 7s. 6d.,

a total of £5 12s. 6d., in respect of which he would be entitled to the minimum fee of £7 10s. It is not difficult to see that detailed charges for negotiating, deducing title and perusing and completing the conveyance made up according to Sched. II would, in the majority of cases, easily exceed this figure.

So much then for the point of time at which notice of election under r. 6 must be given. Now let us look at the other requirements of the rule. The notice must be in writing. There is nothing obscure about that. Then it must be "communicated to the client." There is really nothing very complex about that requirement, but it has been the subject of controversy.

Thus, in *Re Metcalfe; Metcalfe* v. *Blencowe* (1887), 57 L.J. Ch. 82, a solicitor acted for two trustees and he gave notice of election under r. 6 to one of them and, although the notice was found to be bad in that it was out of time, Stirling, J., expressed the view that had the notice been given in time it would still have been bad since where there are two clients then the notice must be communicated to both of them and not to one as representing the other.

Similarly, where the solicitor for a lessor or vendor gives notice to his client that he intends to base his remuneration on Sched. II, then the notice binds the lessee or purchaser who has agreed to pay the lessor's or vendor's costs (see *Re Allen, supra*, and the *Bridewell Hospital* case (1887), 57 L.T. 155).

The rule thus appears to be that the solicitor must give his notice of election to the person who instructed him, who may not necessarily be the party who will ultimately pay the costs.

J. L. R. R.

THE YEAR'S PRACTICE POINTS—II

Pleadings

An interesting case on the subject of particulars of a pleading has not been fully reported, though a note of it appears at [1948] W.N. 394, and also at 92 Sol. J. 634. *Johnson* v. *Augarde* raised the question whether a certain allegation contained in a statement of claim was an allegation of "knowledge or other condition of the mind," so that under r. 22 of Ord. XIX it was sufficient to allege it as a fact without setting out the circumstances from which it was to be inferred; or whether, on the other hand, it was properly to be regarded as an allegation of "notice to any person of any fact, matter or thing" of which the form or precise terms of the notice or the circumstances from which the notice was inferred were material, in which case under the latter part of Ord. XIX, r. 23, those terms ought to have been pleaded. In the former case no particulars of the allegation could be ordered (*Burgess* v. *Beethoven Electric Equipment, Ltd.* [1943] K.B. 96). The allegation in question was that at the time of the sale of a dwelling-house of which the plaintiff claimed to be a tenant in common in equity the defendant who had purported to buy the property from the person in whose name the house stood "was well aware that the said [vendor] was a trustee of the property for himself and the plaintiff." The defendant purchaser, urging that the precise terms of the notice must be material having regard, *inter alia*, to s. 199 of the Law of Property Act, 1925, sought an order for further and better particulars of this allegation. Jenkins, J., however, held that r. 22 and not r. 23 applied, and that no particulars need be given.

The substantial question in *Day* v. *William Hill (Park Lane), Ltd.* (1949), 93 Sol. J. 163, concerned accounts stated, and it was held by the Court of Appeal that a certain statement of winnings on horse and dog races was not an account stated. The court upheld the decisions of the master and of the judge in chambers striking out the statement of claim based on this document. (It must not be assumed that every statement of claim alleging an account stated arising out of gaming transactions is automatically to be struck out. The recent overruling of the *Hyams* v. *Stuart King* decision does not appear to go as far as that. See also *Gugenheim* v. *Ladbroke & Co., Ltd.* [1947] 1 All E.R. 292.) Besides this, *Day's* case involves a procedural point concerning the evidence which was used on the summons to strike out the statement of claim. This summons was originally issued under Ord. XXV, r. 4, which enables the court to strike out a pleading "if it discloses no reasonable cause of action or answer." On such a summons affidavit evidence appears not to be admissible, for what has to be looked at is the pleading itself. Nevertheless, the defendants supported their summons by an affidavit to which was exhibited the document referred to in the statement of claim. Possibly it was felt that this was the best method of putting the statement before the court and demonstrating its shortcomings as an account stated. But, as Singleton, L.J., says: "If documents are referred to in a pleading they become part of the pleading, and it is open to the court to look at them without the need of any affidavit exhibiting them." The situation was saved by the circumstance that Ord. XXV, r. 4, is not the only source of the court's power to strike out a pleading. It may do so under its inherent jurisdiction if it thinks that the pleading is an abuse of the process of the court. Moreover on such an issue it is obvious that circumstances other than the contents of the pleading may be relevant, so that it becomes quite proper to admit affidavit evidence. The Court of Appeal treated the summons as having been amended, so far as necessary to let in the affidavit, and affirmed the orders below striking out the statement of claim.

Directions—The Right to Trial by Jury

In one sense the converse of applying to strike out the pleading of one's opponent is to ignore it, or at all events to let it go by default. The normal reaction of a defendant to such summary treatment is to have the action dismissed for want of prosecution, while a plaintiff is entitled and may commonly be relied upon to take judgment in default of pleading. But, just as a defendant may decide to let well alone, so a plaintiff sometimes wishes (not unjustifiably) to secure for his suit a more formal method of disposal than a purely ministerial act done in the court office. In particular he may desire that a jury should know the facts with a view to their vindicating him. *Nagy* v. *Co-operative Press, Ltd.* (1949), 93 Sol. J. 388, was a libel action in which damages and an injunction were claimed. The defendants failed to deliver a defence, and in these circumstances the plaintiff could have moved for judgment under Ord. XXVII, r. 11. (The entry of judgment in default of defence was not open to him because of the claim for an injunction.) What the plaintiff did, however, was to take out a summons for directions and secure an order for the trial of the action by a judge and special jury. On appeal to the Court of Appeal, it was contended by the defendants in the first place that r. 11 of Ord. XXVII bound the plaintiff to adopt the course of moving for judgment, and secondly that, by reason of Ord. XXX, r. 1 (*a*), a summons for directions could not be issued until the close of pleadings. Both these contentions were negatived by the court. Somervell and Cohen, L.JJ., pointed out that, on its natural construction and on authority, r. 11 is merely permissive, while even if a summons under Ord. XXX were not appropriate the court would have an inherent jurisdiction to entertain an application that the outstanding matters should be tried by jury.

This question of jurisdiction settled, the court in *Nagy's* case was not asked to interfere with the discretion of the master and the judge in chambers who had ordered the jury. On the other hand, in *Christen* v. *Goodacre and Another* (1949), 93 Sol. J. 423, which was also an interlocutory appeal from an order directing trial by jury, the exercise of the judge's discretion was attacked. The claim there was for damages for negligence in surgical treatment. The defendants were a hospital house surgeon and the Minister of Health as successor

to the board of governors. The contest on the appeal was between the two defendants, of whom the surgeon desired a jury while the Minister argued, *inter alia*, that the case would involve the examination of scientific evidence and complex disputations of law. Asquith, L.J., saw no reason to assume that the judge had left out of account any of those forceful considerations. Against them must be set the valuable protection which was afforded to a professional man, whose reputation was endangered, by the necessity for the unanimous verdict of a jury. While cases could be imagined (and the learned lord justice instanced *Johnston* v. *Osenton & Co.* [1940] 2 K.B. 123) in which it would be manifestly wrong to order a particular mode of trial, the question in the present appeal was one in which reasonable judges might arrive at different conclusions. It was not possible to say that the judge had exercised his discretion wrongly and his order was affirmed.

Execution and Enforcement

A judgment obtained against a partnership firm often gives rise to problems of execution. One course open to the judgment creditor is to execute against the goods of a partner in the firm who is liable for the debt upon which the judgment is founded. Unless that partner has been served with the writ, or has appeared in his own name or has admitted the partnership, it will first be necessary for the creditor to obtain leave to issue execution, and this may well lead to an issue being directed to be tried before a master (Ord. XLVIIIA, r. 8). Such a case was *Tower Cabinet Co., Ltd.* v. *Ingram* (1949), 93 SOL. J. 404, a report which will repay study by those concerned with the debts of dissolved partnerships. It will be seen that neither the appearance of an individual's name on a printed order form, nor the lack of the usual advertisement of dissolution in the *London Gazette*, will be conclusive of the liability of the individual (he having in fact retired from the partnership) if he was not known to the creditor as a partner.

Two new garnishee cases were decided in the King's Bench Division in May. *Seabrook Estate Co., Ltd.* v. *Ford* [1949] 2 All E.R. 94, raised again the question whether the garnishee who had been served with the order *nisi* was a debtor of the judgment debtor in respect of a "debt owing or accruing" within r. 1 of Ord. XLV. It has been clear for over sixty years that this expression can cover a sum payable in the future provided that the obligation to pay it is in existence at the date of the application for the order *nisi*. The present applicant sought to bring within its ambit an amount in the hands of the receiver appointed by the debenture-holder of a limited company which was the judgment debtor. Notwithstanding that accounts had been filed by the receiver showing a balance in the receiver's hands, part of which would or might ultimately become payable to the company, Hallett, J., refused to hold that there was any present debt due from the receiver. The result was that the issue which had been ordered to be tried under Ord. XLV, r. 4, was determined in the garnishee's favour and the order *nisi* discharged.

Order XLV, r. 4, under which the *Seabrook Estates* case proceeded, is applicable if the garnishee disputes his liability. Rule 5 deals with the slightly different case where the garnishee "suggests" that the debt sought to be attached belongs to a third person or that a third person has a lien or charge on it. The provisions of that rule were invoked in vain in *James Bibby, Ltd.* v. *Woods* (1949), 93 SOL. J. 434. There, however, the active party was not apparently the garnishee, but the judgment debtor, who "suggested" that his solicitor had a lien or charge for costs on the money in the garnishee's hands. Since no charging order had been applied for, the Divisional Court, affirming the decision of the District Registrar, declined to recognise the alleged charge, and made the garnishee order absolute.

J. F. J.

A Conveyancer's Diary

THE NEW DEATH DUTIES—II

THE section which concedes an allowance in respect of legacy or succession duty paid on the capital value of a settled fund is s. 29, the first subsection of which must be quoted in full. It is as follows:—

> "(1) Where—
>
> (*a*) legacy duty or succession duty in respect of interests under a settlement has been satisfied by the payment (whether before or after the [30th July, 1949]) of the duty on the capital value of the settled property; and
>
> (*b*) estate duty becomes leviable on that property or on any part thereof (hereinafter in this section referred to as 'the property passing') by reason of its passing under the settlement on the death after the [30th July, 1949] of a person not competent to dispose of the property passing; and
>
> (*c*) the property passing has not previously passed as aforesaid;
>
> then, subject to the provisions of this section, the estate duty on the property passing shall be payable at the reduced rate obtained by deducting from the rate at which it would be payable apart from this section the rate at which the legacy or succession duty was paid, or if the second of the two last-mentioned rates is the higher shall be treated as satisfied."

The first thing to note about this provision is that the requirements (*a*), (*b*) and (*c*) are cumulative, and the first of these requirements makes it clear that the concession afforded by this provision operates in a narrow and well defined field. Apart from the rare instances of legacies given to two or more persons who were liable, under the law as it existed before the 30th July, 1949, to duty at the same rate as joint tenants, legacy duty was payable under that law on the capital value of a legacy only when the legacy was settled upon persons in succession, and all such persons were liable to duty at the same rate. This, therefore, will be the common case in which the concession afforded by s. 29 of the Act of 1949 will operate.

The second requirement, that at (*b*) above, appears at first sight merely to underline the first requirement. To take an example, a legacy was settled by a testator who died before the 30th July, 1949, upon his sons, A and B, successively for life, with remainder to another son, C. The beneficiaries all being liable to legacy duty at the same rate, duty would have been paid on the capital value of the legacy on the death of the testator, and under the old law no further legacy duty became payable on the death of any of the beneficiaries successively interested in the legacy. Now if A dies after the 30th July, 1949, and estate duty becomes leviable on the capital value of the legacy by reason of its passing on his death (*Cowley* v. *Commissioners of Inland Revenue* [1899] A.C. 198), A not being competent to dispose of the legacy, the concession applies. But the applicability of the concession in these circumstances appears to be clear from para. (*a*) of s. 29 (1), and the object of para. (*b*) must, therefore, be to exclude from the ambit of this concession the rare case of persons entitled to a legacy as joint tenants; a joint tenant, being able to sever the joint tenancy during his life or by a disposition taking effect on his death, is not a person not competent to dispose of the property in question.

The third requirement, that at (*c*), does no more than ensure that the concession provided for by s. 29 will not operate more than once in the case of any single property. Thus, in the example given, if both A and B die after the 30th July, 1949, and on each death estate duty becomes leviable on the property comprised in the settled legacy,

the concession will apply on the death of, and as the result of the estate duty payable on that property in connection with the death of, either A or B, whichever of them is the first to die, but it will not apply to exonerate the property, in whole or in part, from the estate duty which becomes payable in respect thereof on the death of the other of the two limited owners.

The remaining subsections of s. 29 deal with the manner in which the concession conferred by subs. (1) of the section is to operate. To take a simple example, this will be on the following lines. A legacy of £1,000 was settled by a testator who died before the 30th July, 1949, successively on A and B for their respective lives, with remainder to C absolutely, and A, B and C were all strangers to the testator so that the appropriate rate of legacy duty (taking into account the additional legacy duty imposed by s. 49 of the Finance Act, 1947) was 20 per cent. All the beneficiaries being liable to this duty at the same rate, the appropriate method of payment was a single payment of 20 per cent. on the capital value of the legacy, which amounted to £200, and this payment was made when the property to answer the legacy was appropriated. (The date of actual payment, whether before or after the 30th July, 1949, is immaterial: s. 29 (1) (*a*).) The first life tenant, A, dies after the 30th July, 1949, leaving an estate of £16,100 for estate duty purposes, i.e., an estate in regard to which the appropriate rate of estate duty, according to Sched. VII to the Act, is now 10 per cent. To calculate the extent of the concession, take the rate at which estate duty on the *corpus* of the settled legacy would be payable if it were not for this concession (i.e., 10 per cent.) and deduct therefrom the rate at which the legacy duty was actually paid (i.e., 20 per cent.), both the rates being expressed in percentages for this purpose (s. 29 (6)). The result, if it is a positive quantity, is the rate at which that portion of A's estate which represents the settled legacy is liable to estate duty. If the result is a minus quantity, as in the example given, the estate duty attributable to the portion of the total estate represented by the settled legacy is treated as satisfied (s. 29 (1)), and the difference between the amount of the duty actually paid in the past and the amount of estate duty which the relevant portion of the estate would now bear if it were not for this concession is repayable on a claim being made, supported by such evidence as the Commissioners may require (s. 29 (2)). In the example given, the amount of legacy duty paid in respect of the settled legacy was £200, and the amount of estate duty which would be payable apart from this provision is £100; the difference between the two sums, £100, thus becomes repayable on a claim made for that purpose.

But if, in the example given, A, B and C had been lineal issue of the testator and the rate of duty applicable in their case consequently only 2 per cent., the calculation of the concession would be as follows. From 10 per cent. (the rate at which estate duty would be payable on A's death apart from this provision) deduct 2 per cent. (the rate at which legacy duty was paid on the settled legacy). The result, 8 per cent., is the appropriate rate of estate duty leviable on A's death on that part of his estate which represents the settled legacy, as compared with the 10 per cent. rate leviable on the rest of the estate. But on the death of the second life tenant, B, no further concession, as we have seen, will be made, and estate duty will be leviable at the full rate appropriate to B's estate, whatever that may be, on all assets, including the settled legacy.

An interesting provision is s. 29 (3), whereby any sums repaid under s. 29 (2), as in the example given, are to be deemed to be an accretion, not to the settled legacy or fund, but to the fund out of which the legacy or succession duty was paid. This will normally be the legacy or settled property itself, but where, e.g., a testator directed the payment of legacies free of duty, it is the residuary estate which will benefit by this accretion. In the case of small amounts the bother of re-opening estate accounts which have been closed will impose an unwelcome duty on personal representatives, only partially alleviated by the further provision that where the fund to which the repayment accrues has been vested in a person beneficially entitled thereto, the repayment may be made direct to him or to his executors.

The remaining changes in the law relating to death duties will receive attention next week.

"A B C"

Landlord and Tenant Notebook

TRUSTEE IN BANKRUPTCY AS SUCCESSOR IN TITLE

THOSE who are inclined to expect too much from the statutory provisions enacting that assigns shall be bound by covenants, and that whether named or not, will do well to consider the draftsmanship of the lease examined in *Re Wright, ex parte Landau* [1949] 2 All E.R. 605. The main facts of that case were that a tenant of premises let to him by a lease for twenty-one years from a date in 1947 was adjudicated bankrupt in January, 1949. The lease contained a tenant's covenant not to assign, etc., without the written consent of the landlord, such consent not to be withheld in the case of a respectable and responsible person. Though the lease also contained a forfeiture clause covering bankruptcy, the landlord elected not to re-enter on that ground and the trustee did not desire to disclaim, but proposed to assign the residue of the term to the wife of the debtor. The landlord thereupon sought a declaration that the trustee was bound by the covenant. Shortly, the trustee's case was that an involuntary assignee was not bound. And while this proposition was hotly contested, ultimately the decision that he was bound was based on the parenthetic description of the grantee in the "Parties" section of the lease: "(hereinafter called 'the tenant' which expression shall where the context so admits include his *successors in title*)."

Unnecessarily, as it transpired, attempts were made on behalf of the landlord to impugn the validity of old-established authorities such as *Goring* v. *Warner* (1724), 2 Eq. Cas. Abr. 100, and *Doe d. Goodbehere* v. *Bevan* (1815), 3 M. & S. 353. It was contended that the provisions of the Bankruptcy Act, 1914, entitling trustees to disclaim onerous leases (s. 4 (1)) and those of the Landlord and Tenant Act, 1927, importing into covenants of this kind a proviso against unreasonable refusal (s. 19 (1)) had, in effect, put an end to the authority of such decisions. Danckwerts, J., declined to accede to this argument but accepted one based on a close examination of the decisions themselves.

In the one, the covenant named "the lessee, his executors or administrators"; in the other "the tenant, his executors, administrators and assigns." In neither instrument was there any reference to successors in title generally, and the *ratio decidendi*, as was pointed out more recently by Neville, J., in *Re Birkbeck Permanent Building Society* [1913] 2 Ch. 34, was simply that a contractual restriction on assignment does not apply to a person on whom the property has devolved by operation of law and who is under an obligation to assign. The real basis of the decision in *Doe d. Goodbehere* v. *Bevan*, it seemed to Danckwerts, J., was that involuntary assigns such as a trustee in bankruptcy were not assigns within the meaning of the covenant. In *Goring* v. *Warner*, it is true, Lord Macclesfield took the line that an assignment which had the support of an Act of Parliament (commissioners in bankruptcy being under a statutory duty) superseded any private agreement between the parties, and Neville, J.'s "under an obligation to assign" seems to reflect this view of the matter. In *Baily* v. *De Crespigny* (1869), L.R. 4 Q.B. 180, which was not referred to, I think both approaches will be found. It was a case in which a landlord, granting a lease in 1840 and thus before railway development had started in earnest, sought to protect amenities by a covenant that neither the lessee nor his assigns would permit building on a paddock fronting the demised premises. In 1862

a statute authorised a railway company to acquire the paddock and build a station upon it, which they did. The position was examined by reference to the pleadings, which concluded with demurrers to both plea and replication; suffice it to say that while substantially judgment was given for the defendant on *lex non cogit ad impossibilia* principles, by the operation of which the defendant was said to have been discharged from his covenant (surely not altogether?), the judgments also express the view that this company was not the sort of thing the parties had in mind when they used the word "assigns."

The moral seems to be that parties must still not always expect either the legislature or the judicature to make their contracts for them. The facts of *Re Wright, ex parte Landau*, were perhaps a little unusual; one does not often find both a landlord and a tenant's trustee in bankruptcy anxious to keep a lease alive when either might put an end to its existence, and the circumstance that it had only just started life does not completely explain their attitudes. But the decision that "successors in title" includes involuntary assigns is of importance not only in this connection but also in connection with such enactments as the Law of Property Act, 1925, s. 78, by which a covenant relating to any land of the covenantee shall be deemed to be made with the covenantee "and his successors in title and the persons deriving title under him or them."

Danckwerts, J., reinforced his reasoning by contrasting the position of a trustee in bankruptcy with that of a liquidator of a limited company, or at all events by citing the judgment of Lord Sterndale, M.R., in *Re Farrow's Bank, Ltd.* [1921] 2 Ch. 164 (C.A.), in which that contrast was pointed out, and it was emphasised that whether the winding up was voluntary (as had been the case in *Cohen* v. *Popular Restaurants, Ltd.* [1917] 1 K.B. 480), or not, made no difference. For property does not vest in a liquidator, however much control he may exercise or whatever the source of his powers; when there is an assignment of a lease held by a company in liquidation, it is effected by the company acting by the liquidator. He would, therefore, not fall within the meaning of the expression "successors in title" though that expression has a wider connotation than the term "assign."

R. B.

HERE AND THERE

OBITER DICTA

GLANCING round one's shrinking shelf-space and contemplating the cost of bookbinding, one is tempted to regret the days when the law reporter worked alone, without the shorthand writer as an auxiliary. Then he took down, to the best of his skill and judgment, the distilled essence of what was said and it might come to half a page or so, all substance and no waste. But enter the shorthand writer and you get what the learned judge really did say and (may one respectfully whisper it?), from the point of view of the practitioner, how often is much of it "waffle," with a couple of lines that matter in acres of thinking aloud. In the appellate courts how little, in the way of illumination, would generally be lost if, after the first judgment, nothing followed but "I concur." The Court of Criminal Appeal seems to get on well enough on a single expression of opinion without any of those further displays of virtuosity which make cases elsewhere a sort of sonata, with *allegro moderato, adagio expressivo, scherzo*, or what you will, following one another in inevitable succession, while the variations on the theme of the statement of facts afford endless opportinities for each accomplished executant. It is said that some judges even measure their satisfaction by the number of pages they can fill in the law reports and that a judicial personage once complained to his reporter of having been allotted by him fewer than one of his brethren. Once a learned Law Lord, who had rather a habit of spreading himself, was somewhat inopportunely confronted by counsel with an inconvenient pasage from one of his own opinions. "It only shows the danger of citing these casual observations," said he rather testily. "It only shows the danger of *making* these casual observations," commented Lord Russell of Killowen. On such passages as that the legal dons at the universities construct articles for the periodicals and dissertations in their text-books. It might mean this. It might mean that. It might mean the other. When the actual truth is that it means nothing at all. The late Farwell, J., who would never reserve judgment, if he could possibly help it, had a way of dealing with his first point, repeating what he had said in slightly different words while he was thinking over his second point, then dealing with his second point, and so on.

MISCONCEPTIONS

FULL though it is, the shorthand note is not always infallible, or at any rate an infallible guide. Looking up an old House of Lords case recently, I noticed a reported reference to Lord Lindley's "voluminous" judgment, which internal evidence indicated was a transcription slip for "luminous." I recall an occasion when a witness, on the strength of the shorthand transcript of some earlier evidence, was severely cross-examined as to whether he had not admitted that at a certain time he was a money-lender, which he stoutly denied. When the original note was produced the relevant sentence was found to read "I was in Ironmonger Lane." An even more subtly remarkable misconception was encountered by a friend of mine, during the late war, who was called on to appear before a court-martial on behalf of a soldier charged with various offences of a violent description. He was given to understand that his client was a man of very dangerous character and had admitted that he was a Red leader. On going into the matter he discovered that what the accused had actually said was that his trade was that of a red leader (no capitals). To an ingenious mind this information, to the amazement of everyone concerned, suggested a defence of insanity (for the case was otherwise indefensible). Medical evidence was available as to the possible effects of red lead poisoning on the mental stability of a patient. The result was an acquittal for the man and considerable *kudos* for the defending officer, who had formal legal qualifications, but, never having practised, had conducted the case wholly by the light of natural improvisation. After that he never looked back till he had an agreeable War Office appointment. Moral: Never say die.

NO FOLLOW ON

LEGAL heredity, child following parent into the law unto the third or fourth generation, is a well established phenomenon and now for a long time descent has been no longer limited in tail male. But daughters seem rather less inclined to follow on than sons. So doubtless it is not surprising that lately and fairly lately (respectively) the daughters of two Kingston solicitors have been photographically and photogenically in the news as following callings singularly remote from the rigours of an office stool. Miss Marjorie Evans, modelling sportswear at the Scottish Industries Fair, attracted the attention of Her Majesty the Queen (which would have been unlikely as an incident in a county court routine), and Miss Margaret Brandebourg, carving animals and flowers over the door of the Commercial Bank of Australia, attracted the universal attention of Old Jewry. Speaking from memory, I believe that not above 300 women have been admitted solicitors and that hardly more than half are in practice.

TAIL PIECE

"JUDGES Clash on Scones." *Daily Telegraph* headline. No, not a fracas in the High Court tea room, only a difference of opinion as to awards at the British Bakers' Exhibition.

RICHARD ROE.

Sir William Jones, C.B.E., who began his business career as an office boy in a Ruthin solicitor's office and rose to be clerk to Denbighshire County Council, a post from which he retired last April, received the highest honour that Ruthin can bestow—the honorary freedom of the ancient borough—on 22nd September.

On 12th November, Mr. W. T. Vint, of Bradford, solicitor, will preside over the annual dinner of the Bradford Historical and Antiquarian Society. Mr. Vint is also chairman of Bradford Civic Playhouse, president of Bradford Arts Club, and a member of the Cartwright Hall Consulting Committee.

THE LAW SOCIETY'S PROVINCIAL MEETING AT BLACKPOOL

THE outstanding features of the second post-war Provincial Meeting of members of The Law Society, held at Blackpool from Tuesday, 20th September, to Saturday, 24th September, were the opening address by the President, Mr. H. Nevil Smart, C.M.G., O.B.E., J.P., at the first plenary session on Wednesday morning, and the address by the Attorney-General, Sir Hartley Shawcross, K.C., M.P., on the Legal Aid and Advice Act, 1949, on Friday morning.

There were also very attractive events on the social side which were greatly enjoyed by the delegates and their wives. A large number of members and their guests attended the joint reception and ball held in the Casino on Tuesday night. They were received by the Mayor and Mayoress of Blackpool (Alderman Alfred Salisbury and Mrs. P. Yardley), the Mayor and Mayoress of Preston (Alderman and Mrs. F. Jamieson), and the President.

Further relaxation and entertainment were available—and eagerly taken—in a visit to the Tower Circus on Wednesday evening and a dance and buffet supper at the Cliffs Hotel on Thursday and Friday evenings. On the latter evening the delegates were enabled to tour and view the illuminations by special tramcars.

The concluding event was a whole-day excursion by coach to the Lake District, during which the Blackpool and Fylde District Law Society and the Preston Incorporated Law Society entertained the party to lunch. Before the return at 6.30 p.m. they partook of tea at the invitation of the Westmorland Law Society, the Carlisle and District Law Society, and the West Cumberland Law Society.

MAYOR'S WELCOME

When the first plenary session opened on Wednesday morning, in the Spanish Hall at the Winter Gardens, warm words of welcome were voiced by the Mayor (Alderman A. SALISBURY). In extending this hearty welcome, he said they in Blackpool appreciated the kindness of the members of The Law Society in holding this very important conference in that town.

Lieutenant-Colonel ERIC READ, T.D., M.A. (President and Secretary of the Blackpool and Fylde District Law Society), and Mr. J. C. O. DICKSON, D.F.C. (President of Preston Incorporated Law Society), also gave a hearty welcome to the delegates.

On the platform, sitting on either side of the President, were several members of the Council, including: Mr. Fred Webster (Local Government Boundary Commissioner), Mr. Charles Norton, M.B.E., M.C. (London), Mr. Arthur Coleman (Leamington Spa), Mr. F. A. Padmore, LL.D. (Manchester), Mr. L. S. Holmes, LL.M. (Liverpool), Sir Alan Gillett, T.D., D.L. (London), Mr. W. C. Crocker, M.C. (London), Mr. Leslie E. Peppiatt, M.C. (London), Mr. S. C. T. Littlewood (London), Mr. G. F. Pitt-Lewis, M.C. (London), Mr. Henry B. Lawson, M.C., LL.B. (London), Mr. J. B. Leaver (London and Blackpool), Mr. Arthur J. Driver (London), Mr. E. T. Maddox (London), Mr. W. J. Taylor (Newmarket) and Mr. Roland Marshall, J.P. (Liverpool). Mr. T. G. Lund, C.B.E. (Secretary of The Law Society), was also on the platform.

PRESIDENT'S ADDRESS

The PRESIDENT prefaced his address by thanking the Mayor, Colonel Read and Mr. Dickson for their warm words of welcome and also alluded to the kind hospitality and excellent arrangements.

The Mayor then withdrew, and the President proceeded with his address. First, in some introductory remarks, he expressed equally sincere thanks to Colonel Read. "We are most appreciative of what you have said," he added, "and especially of the great contribution you have made personally towards the arrangements for this meeting."

The President, on behalf of the members, also most cordially welcomed Sir Albert and Lady Napier, who were attending the conference as guests of the Society. Sir Albert Napier, Permanent Secretary to the Lord Chancellor and Clerk of the Crown, was no stranger to most of them. He had always been a very good friend to The Law Society and to their branch of the profession generally. He had a very responsible and difficult task to perform in his high office.

"I am glad," the President added, "to have this opportunity of acknowledging that it is to a great extent due to him that the relations between the Society and the Lord Chancellor's Department are so cordial. We all know that when we see Sir Albert, although he may not be able to concede what we ask on every occasion, we shall always be listened to with understanding, courtesy, and sympathy." He hoped that Sir Albert and Lady Napier would enjoy their stay. "We feel very honoured," he continued, "that they have accepted this invitation despite the very many claims on their time."

INCREASED MEMBERSHIP

The Law Society's Provincial Meeting was being held in Blackpool for the first time in the Society's long history. "We live in these days in a bewildered world in which no one can truly feel secure or really enjoy the blessings of peace," the President added. "These are days of rapid changes, and it is our task, representing as we do all sections of the public in this country, to move with the times and to keep abreast of ever-changing events. We on the Council have made great efforts to do so during the recent years. I believe that we may fairly claim to have succeeded and, indeed, to have foreseen coming events to a certain extent and taken wise steps to advance the interests of our members.

"I think, moreover, that our members generally appreciate that fact, though I readily admit that not all of them appear to do so. But I think that proof lies in the fact that our membership has mounted, not only steadily, but very rapidly, during the last few years. In that connection I most readily acknowledge the great help which the Provincial Law Societies have played in the campaign launched some eighteen months ago to secure as nearly as possible 100 per cent. voluntary membership of The Law Society by all practising solicitors.

"We were quite proud in 1939 that the membership of The Law Society had exceeded 11,000 out of a total of 17,000 odd practising solicitors. To-day, despite the drop during the war years, the membership figure stands at 14,350 as compared with just over 16,000 practising solicitors. It is true that some 750 of our members do not hold practising certificates and that there are, therefore, still some 2,500 practising solicitors to be brought into the fold. I hope that, with your help, as obviously active supporters of this Society by your presence at this conference, and with the continued help and support of the Provincial Law Societies, the majority of those 2,500 practising solicitors may be persuaded to give the support to their professional organisation which I confidently assert it has earned and, in these days, needs.

"The year ahead of us will, without question, be one of the most important in the history of the Society, and I want to touch to-day upon a few of the matters with which the Society and its members will be concerned—a few only, because I want to leave time for a general discussion at the end."

LITIGATION COSTS

"Last year probably the hardest worked committee of the Council (upon which served a number of non-Council members of the Society with great experience of litigation) was the Special Committee on the Costs of Litigation. That committee had the task of preparing the evidence to be tendered to the Evershed Committee, which is considering this difficult question of how to reduce the costs of litigation. Our committee have submitted twelve memoranda of evidence, and in addition the Joint Committee of the Council and the Bar Council (strengthened by members of the Special Committees of The Law Society and the Bar) submitted a further four joint memoranda of evidence.

"The Evershed Committee has a very difficult task to discharge. It has recently published its first interim report after some two and a half years' deliberation. The two main recommendations in that report are a fixed-date system in one form or another for trials in the King's Bench Division in London—a reform for which The Law Society has pressed throughout the whole of its evidence—and an increase in the jurisdiction of the county courts.

"The Evershed Committee take the view that it is not possible to institute a system of fixed dates for trial on circuit at present without an increase in judge power, and without a complete reorganisation of the whole system of administration of High Court jurisdiction outside London."

TRIAL DATES UNCERTAINTY

"The interim report covers nearly sixty pages. It has received comparatively little attention in the public Press, but those of you who have had time to read it will, I am sure, agree that the Evershed Committee has made an attempt to suggest a reform which should remove one of the greatest defects in the

present system, namely, the uncertainty as to when a case will come on for trial.

" Perhaps the most significant statement in the whole report is that, so far as the committee has been able to ascertain, England is the only civilised country in the world where litigants do not know as a matter of course the date on which their actions will be heard ; and the committee, quite reasonably it seems to me, find it difficult to believe that it is only in England that this is not possible.

" In the Chancery Division the new system of fixed dates for trial has worked quite well. The principal objection to the introduction of this system was based on the fact that it would involve a loss of judicial time. It is interesting, therefore, to observe that in the Michaelmas Term, 1947, before the system of fixed dates for trial was introduced, 44 hours of judicial time were wasted in the Chancery Division, and that in the Michaelmas Term of 1948, when the scheme was in operation, the wastage of judge hours was 48½. In other words, the extra loss of judicial time for the whole term caused by the introduction of the fixed dates system was 4½ hours. Few will believe that that is too high a price to pay for the advantage to litigants, their witnesses and their lawyers in knowing well in advance the dates upon which their cases will be heard.

" Quite apart from any additional litigation resulting from the Legal Aid and Advice Act, the Evershed Committee recommend that the King's Bench judge power should be increased by the equivalent of six judges. But it is pointed out that four additional judges will be sufficient if the suggestion is adopted that the court should sit at 10.30 in the morning, rise for one hour for lunch, and then continue until 4.30 p.m., and if the Long Vacation is reduced to eight weeks—that is to say, from the beginning of August until the end of September—and the Christmas Recess is shortened by one week.

" The committee point out that the historical reason for the present length of the Long Vacation was the need for people to gather in the harvest, and that if their suggestions for shortening the Long and Christmas Vacations and extending the hours by half an hour a day are adopted, approximately eighteen additional working days would be obtained in a normal year.

" The committee indicate that the appointment of additional judges will mean that other administrative problems will arise, such as accommodation, the provision of associates, and so on ; and to allow time to deal with these difficulties they suggest their proposals should not be put into force until Michaelmas, 1950.

" Another point in the report which is not without interest is that in 1871 there were eighteen King's Bench judges and that it was only in 1941 that that number was increased to twenty, although the population had risen from 22,750,000 in 1887 to 43,500,000 in 1948. In other words, in the last sixty years the population has nearly doubled, while the increase in King's Bench judges has been two. Similarly, in the county court, it was provided in 1871 that the number of judges should be sixty, but it is only since 1946 that, excluding the two judges of the Mayor's and City of London Court, the number of county court judges has been raised to the maximum of sixty.

" If not only our good neighbour, Scotland, but every other civilised country in the world has a system of fixed dates for trial, it does seem that we in England ought so to arrange matters that we can establish the same system. One of the first questions that our clients ask us when they are about to embark upon litigation is ' When is my case likely to come on for hearing ? ' And the fact that they cannot be told causes them quite unnecessary worry and anxiety. The fixing of dates for trial should remove a blot on our legal system which is, in other respects, I believe, the envy of other nations.

" The Evershed Committee has far to go yet before its task is done, and our own Costs of Litigation Committee will soon be hard at it again preparing evidence for that committee on point after point which arises and upon which we are asked for our views. We were prepared for a hard year's work ahead, and it is a grievous loss to us that our chairman of this committee, Mr. Sidney Nichols, should have died so suddenly and so prematurely at the end of July last. We shall miss him sadly."

Remuneration

" So much for the costs of litigation—but what about our remuneration in non-contentious matters ? Here I do not want to usurp or encroach upon the functions of Mr. Roland Marshall as the chairman of the Scale Committee, upon whose agenda this subject looms large for discussion to-morrow morning. It is, however, a matter of vital importance to us as a profession that we should receive remuneration which will not only enable us to maintain a proper standard of living, but will permit us to pay our clerks and other employees wages which will enable them also to live reasonably.

" These are days of acute competition for staff. When there is full employment it is inevitable that the rising generation will take the posts which are most remunerative. Already we see the clearest signs that the young men and women of the calibre which it is essential they should have, if they are to be efficient solicitors or skilled clerks in solicitors' offices, are going elsewhere than into the legal profession—elsewhere where the financial rewards are higher. If we are to continue to give to the public the skilled services which they require, and will require indeed in far greater measure than ever before now that the Legal Aid and Advice Act is law, it is essential that we are put as a profession upon terms which will enable us to compete with other professions, trades and industries in attracting into our ranks in sufficient quantity the men and women of sufficient quality who are essential to replace the annual losses through death or retirement—if the latter may ever be possible in future—to fill the gaps made by the war, and to undertake the additional work which the Legal Aid and Advice Scheme is bound to bring in its wake."

" Go-slow " Policy. If—

" We shall again be approaching the Lord Chancellor on this matter, as he invited us to do, towards the end of this year. Having regard to recent events and what certain other sections of the public have done where their requests for increased remuneration have not been met, one is sorely tempted to ponder upon the outcome if, as a profession, we decided to adopt the ' go-slow ' policy which appears to make such a popular appeal these days in certain quarters. References have been made in the past to the law's delays, but I suspect that those delays would be as nothing compared with what we could achieve if we applied our minds collectively and seriously to the problem of going slow, not only in completing our non-contentious business, but of bringing our litigation on for trial. Just think ! (*Laughter.*)

" This is, however, a frivolous and passing thought ; for I suppose if there is one thing more than another that distinguishes a learned profession from a business, or trade, it is our knowledge and acceptance of the fact that we are there to serve the public and that we must defer our own personal interests to those of our clients.

" Strike action, go-slow tactics, and anything of that nature are utterly foreign to the mind of the professional man and inconsistent with the standards of duty and tradition handed down to us by so many generations of lawyers. But the fact that we may not retaliate against what we regard as an injustice in ways which are open to other sections of the public does not mean that we should not press what we regard as being our legitimate demands by every means within our power consistent with our professional standards and the interests of our clients. While this injustice to us continues, we shall continue to be heard in protest. (*Applause.*)

" What our fathers or grandfathers were allowed to charge in 1881, when income tax was 5d. in the £, has been increased by 50 per cent. I wonder in what other professions, trades or industries (from among which I exclude His Majesty's judges) their members would be satisfied to-day to be receiving only 50 per cent. more than they received in 1881 ? The problem of meeting our greatly increased overhead expenses—to solve which we have asked to be allowed in common fairness an increase in our gross remuneration—is however but one, though no doubt the main one, of the many post-war problems arising from the present economic policy. There are others, as you know all too well, and not the least that of making provision for retirement in one's old age, and for young incoming partners to save from income sufficient to provide the essential capital which we must have in our profession.

" Many of you—and I hope all of you—will have read the memorandum on retirement benefits which the Joint Committee set up by The Law Society and the Institute of Chartered Accountants have submitted to the Chancellor of the Exchequer. It is printed in full in the Annual Report which we published last June. Since then we have had no further word from the Chancellor of the Exchequer on the matter, but we do know that it is under examination. I hope that, during my year of office as President, I may be in a position to report to you that satisfactory replies to our representations on remuneration and retirement benefits have been received from both Chancellors—the Lord Chancellor and the Chancellor of the Exchequer alike." (*Applause.*)

The Profession Overseas

"Next, a word or two about our relations with members of our profession overseas. We hope to maintain the very cordial contacts with the Law Societies of the Commonwealth. Many of these societies have shown in a most practical way their sympathy with us in the economic plight in which we find ourselves to-day in this country by sending most generously food parcels for distribution amongst the beneficiaries of the Solicitors' Benevolent Association, the Law Association and the Pritt Fund for Liverpool Solicitors. To take but one example: the Canterbury District Law Society of New Zealand in two successive years cancelled their annual dinner and applied the money which would have been spent upon it in purchasing and shipping to England 450 food parcels for these less fortunate people. Again, other societies and individual practitioners have sent parcels to be distributed as best we can amongst the members of the profession up and down the country. I am sure this generous action is deeply appreciated, not only because the gifts themselves are so acceptable, but because of the thought which has inspired these gifts.

"While on this subject of Commonwealth Law Societies I would like to take the opportunity of congratulating our colleagues in Scotland (two of whom I am pleased to see have registered for this conference) upon the passage into law of their Act of Parliament under which, *inter alia*, the various Scottish societies will in future combine under the title of 'The Law Society of Scotland.' The inauguration of the new society will be marked by a luncheon to be held in Edinburgh, and I should like to send them from this assembly a message of congratulation, greeting and good wishes.

"And now a word on a subject which I know commends itself to my distinguished predecessor in office, that intrepid explorer of foreign parts, Sir Alan Gillett, who spent so much of his time in leading deputations on the European continent—the Hague, Paris or London were all the same to him! (*Applause.*) But he played a leading and valuable part in supporting that new Association, created by the American Bar Association—the *International* Bar Association, of which The Law Society and the General Council of the Bar are members.

"The International Bar Association consists of some forty law societies or Bar associations. These member societies or associations represent collectively over 100,000 lawyers in thirty-five countries. In addition, individuals may be patrons of the Association and at the second Legal Conference of the International Bar Association held in The Hague in the Summer of 1948 over 600 lawyers and guests from fifty-five nations were present.

"In July next year (1950) the third Legal Conference of the International Bar Association will be held in England. The invitation to hold that conference in England was tendered by The Law Society and the General Council of the Bar jointly, and has been accepted. The Overseas Relations Committee of the Council of The Law Society and the External Relations Committee of the Bar Council are sitting as a joint committee to attend to the detailed arrangements for this big conference, which will be held in London from the 19th to the 26th July, 1950, inclusive. We expect an even larger attendance than there was at The Hague, and, as we are the hosts, I very much hope that there will be a strong and representative English attendance at that conference to do the honours for our legal guests from all over the world. We are hopeful especially that there may be a strong visiting party from the Commonwealth and that we may welcome the leading lawyers from the United States, France and the other countries with which we have much in common.

"The conference will provide opportunity for discussion on matters which cover a very wide field—perhaps, indeed, some may think too wide a field—but the programme has been settled by the Programme Committee of the International Bar Association so as to make as wide an appeal as possible to members of our profession throughout the world.

"There will no doubt be many references to this conference in the Society's *Gazette* in the months to come, but I take this early opportunity of announcing the dates and of appealing to members of the profession, who have the interests of the profession at heart, to give us their support and play their parts in the conference, so that our point of view may be expressed on many matters of international importance by representative and leading practitioners, and that they may equally lend a hand as hosts in the social engagements for which we shall provide."

A Great Charity

"I have already mentioned the Solicitors' Benevolent Association in connection with the food parcels from overseas. The Association has very often in the past held its Annual General Meeting at the same time as our Provincial Meeting. This year it is not, but I want, nevertheless, to say a few words in support of that great charity to which, I believe, every member of our profession ought to belong. The subscription is not high, especially in these days. It is one guinea a year minimum, and the sum of ten guineas will provide for life membership. That charity has distributed thousands of pounds to the widows and dependants of solicitors over the last ninety years and last year it distributed £29,409 in relief, which was £6,668 more than its income for the year.

"I have been rather shocked to learn that, although there are over 16,000 practising solicitors, only 7,000 are members of the Association. I would commend this charity to all of you, and I would ask those of you who are not members to join at once and those who are already members to bring it to the attention of your colleagues who may not be members, and to endeavour to obtain at least one new member this year. It is, as our own charitable organisation, obviously one which should command your support, but in any event I should have thought that every solicitor would realise that by becoming a member of the Association he is making provision for his dependants against an emergency with which any of us may some day be faced—at a cost which should be well within everybody's means."

Legal Aid and Advice

"And now, finally, I come to the subject which, above all, will concern the profession in this coming year—namely, the Legal Aid and Advice Scheme. As you all know, the Legal Aid and Advice Act received the Royal Assent and became law on the 30th July last, and on Friday morning we are to be privileged to listen to an address on the Act by the Attorney-General, who played so vital a part in guiding the Bill through the House of Commons. That the Attorney-General can find time amongst his manifold duties to address this meeting on the subject is some measure of the importance which the Government attach to it.

"I do not intend to trespass upon the field which the Attorney-General will cover, nor upon that of Mr. Littlewood, the chairman of the Legal Aid Committee of the Council. But this is a measure of such vital importance to us as a profession and to the public as a whole that I cannot conclude my address without dealing with it.

"The first and most significant point which I want to make is that this is the first occasion, so far as I am aware, upon which any profession has been entrusted with the establishment and administration of a national scheme for bringing the services of that profession to members of the public who cannot afford to pay normal fees for them. We should as a profession take great pride in this fact, for Parliament has adopted almost *in toto* the recommendations of the Rushcliffe Committee that the very responsible task of administering this nation-wide scheme should be discharged by The Law Society despite the considerable cost to the State which the administration of such a scheme inevitably must involve.

"When I say that The Law Society is charged with the responsibility, I mean, of course, that it is the profession which is charged with that responsibility, because The Law Society *is* the profession and can only work through the legal profession and with its goodwill and support.

"Again, when I say the legal profession, I use that term deliberately so as to include solicitors and barristers alike, for in the whole of the administration of this scheme we must work as a team, and the Bar Council have promised that barristers will play their full part in the important work of the committees which are being set up throughout the country and on the panels for court work.

"There are, I believe, good reasons why the profession has been singled out in this way to be entrusted with so responsible a task. First, I think it was because as a profession we foresaw what would be the need of the public at the end of hostilities for financial assistance in obtaining legal aid and advice, and because we made full use of our experience in framing a scheme of legal aid and advice which was so complete and so practical as to commend itself to the Departmental Committee set up by the Lord Chancellor at the end of the war under the chairmanship of Lord Rushcliffe to consider the whole question of legal aid for the poor and not so poor.

"Secondly, I believe that the Government adopted the Rushcliffe Committee's recommendations only because they had evidence of the profession's ability as administrators and realised its genuine concern to provide the legal services for the public which it needed. The evidence of our ability to administer, in my view, was provided by the efforts which The Law Society made in times of exceptional difficulty during the war years to deal with the divorce causes of service men and women, and perhaps especially by the success with which the Services Divorce Department of The Law Society disposed within some eighteen months of the enormous arrears—some 40,000—of service divorce causes with which the country was faced at the end of 1944 and the beginning of 1945."

Lord Chancellor's Appreciation

"Most of you will know the story of how we expanded the Divorce Department in London and into the provinces, after recruiting and training solicitors and staff specially for the work which they had to undertake, but perhaps not all of you realise that since its inception that Department has conducted over 55,000 divorce causes. The Lord Chancellor himself certainly has appreciated what was done, for, on the Second Reading of the Legal Aid and Advice Bill in the House of Lords, he referred to the heavy arrears of service divorces and expressed his appreciation of the work done in this regard by The Law Society in the following words :—

> 'When I became Lord Chancellor I found myself confronted with a vast mass of divorce cases ; the lists were cluttered up, and the position was really hopeless. The Law Society then took on the work. I venture to say that no better piece of public work has ever been done by any organisation in this country than the work which The Law Society did with regard to clearing these divorce lists.'

"As evidence of our interest in helping the poorer members of the public the Government had the knowledge that as a profession we have for twenty-five years carried out voluntarily and gratuitously and, indeed, at personal cost to ourselves, all poor persons cases throughout the country."

Not Nationalisation

"Be that as it may, we have been entrusted with this great task and, make no mistake about it, it is going to be a very heavy task indeed.

"But there is a second important point—indeed, vitally important point—that arises on the Act, and that is that the independence of The Law Society, and above all the independence of the individual practitioner, solicitor and barrister alike, is to be preserved. (*Applause.*) This we have regarded from the start as being of fundamental importance to the public. I have heard it said—sometimes by those who ought to know better—that this scheme is in effect nationalisation of the profession. In my view nothing is further from the truth.

"Nevertheless, the scheme has attracted a great deal of attention in the United States as a result, to a very large extent, of an article written in the early days of the passage of the Bill through the House, describing its effects as the 'socialisation' of the legal profession in England. American opinion has, however, I think, swung away from this view to a large extent in the light of a subsequent article dealing expressly with this American criticism of the Legal Aid Scheme. The writer of the second article to which I refer, Mr. R. Heber Smith, a distinguished lawyer in Boston, who has devoted his career to the subject of legal aid, after tracing the history of the Act from its beginnings at The Law Society, through the Rushcliffe Committee and into Parliament, says :—

> 'If, in America, the executive secretary of a State Bar Association drafted such a plan, had it approved by the Association's Legal Aid Committee and then by the Association which in turn submitted it to a committee of its State Legislature, we should not talk of "socialisation" at all. We should simply think that an alert bar association was trying to do its full duty.'

"And a little later he says :—

> 'These illustrations indicate that the English plan is not revolutionary and that to condemn it as "socialistic" and utterly alien to American ways is simply to confuse and deceive ourselves.'

"To my mind, had this scheme been nationalisation as we call it, or socialisation as the Americans call it, it would have been a national disaster. It is absolutely essential that there should be a strong, free and independent legal profession, and while our profession exists, free and independent of political control, we shall not be faced in this country with dictatorship in whatever guise. (*Applause.*) This does not mean that we can cease our constant watch against attempts to encroach upon the independence of the law and its administration. The public have grown accustomed to hearing lawyers classed with mothers-in-law on the music hall. It is significant, however, that when they are in trouble and receive the help which a lawyer can give them, their views of the profession in the abstract change. The more and the better that our clients know us, the greater their confidence in the profession.

"We have from the very beginning maintained that the conducting lawyers and The Law Society must be independent of State control and we have vigorously resisted every effort that has been made—and there have been many—to add on to the Local Committees under the scheme laymen, who could make no useful contribution to the highly technical work of those committees. (*Applause.*)

"Members of the public are nowadays more and more frequently involved in disputes and litigation with Government Departments and nationalised undertakings. If their lawyers were directly employed and paid by the State, one can see that respect for the law would be in grave jeopardy. Any client who lost his action would all too readily say, 'Well, my lawyers are State employees. What hope had I got against the Government. They know on which side their bread is buttered.' No, that must never be, and I believe that in this Legal Aid Scheme we have found a solution to the problem of bringing legal aid and advice within the means not only of the very poor, who have always had them, but of the not so poor, who often need them most, and at the same time have avoided the evil of nationalisation of the profession."

A Gigantic Task

"The responsibility for the success of this gigantic operation is ours and ours alone. If we fail, we shall not be able to put the blame elsewhere ; but we shall not fail if, as a profession, we give it our whole-hearted support in a spirit of public service.

"I am greatly encouraged by our beginnings. You all know that for the purposes of administration England and Wales will be divided into twelve areas, each of which will be controlled administratively by an Area Committee consisting of twelve solicitors and four barristers. While the power of appointing Area Committees in vested in the Council, the Council have said that they intend to appoint on to the Area Committees solicitors who are the nominees of the Grouped Law Societies within each area. In all the eleven provincial areas provisional Area Committees have been set up, and it is extremely satisfactory to the Council to see that the Grouped Law Societies in every area have got together in a spirit of co-operation and, with due regard for the need for a geographical distribution of seats on the Area Committee, have nominated leading practitioners. My belief is that the provisional Area Committees will command the respect of the profession in every area, and I have every confidence that with the help of the General Council of the Bar representatives on the committees they will discharge their onerous duties with ability."

A Good Start

"Our immediate task during the next twelve months is a gigantic one. We are intending to set the machine in motion if possible by the 1st July, 1950. The Legal Aid Committee of the Council (which includes three members of the Bar Council and the Lord Chancellor's representative) are already in almost continuous session, and very shortly the provisional Area Committees will also be meeting. We have got to secure premises for twelve Area Headquarters, over one hundred Local Headquarters, and a still larger number of Legal Advice Centres. We have got to recruit a large additional staff, including many solicitors, as Area Secretaries, Local Secretaries, Legal Advisers, and so on, and having recruited them, we have to train them in their duties. The Area Committees themselves have got to recruit and appoint the Local Committees within their areas and—what is perhaps the most important task of all—we have got to form the panels of practising solicitors and barristers who will undertake the legal aid cases.

"All this in ten months! However, if we all put our backs into this work we shall succeed. Certainly there will be teething troubles in the early years. Things will go wrong. Mistakes will be made. But with goodwill these difficulties will be ironed out, and the machine will be improved and will, I hope, very shortly become a model which may well be copied in other countries. (*Applause.*)

"We have started well. All the major political parties have welcomed the Act, and politically I believe that we have an unprecedented fund of goodwill to support us. If the profession gives this large new section of the public who may be expected to consult them the skilled services which they have a right to expect from us, we shall very soon have also a large fund of public goodwill as well. And if we attain that, then as a profession we can say, 'We have deserved well of our country'." (*Applause.*)

The Discussion

During the general discussion following the President's address several members expressed high appreciation of his remarks and the way he had dealt with several urgent and important problems.

Mr. A. King-Hamilton (London) referred to the serious problem of reducing the costs of litigation, and said it would not be solved without some drastic alterations. In regard to the Solicitors' Benevolent Association, he urged that if every member had undertaken to introduce a new member its position and strength would be vastly increased.

Mr. W. Charles Norton, chairman of the Professional Purposes Committee, emphasised that the important point of costs of litigation was very much in the mind of the Evershed Committee.

Mr. G. E. Hughes (Bath) asked the conference to consider the effects of the operation of the Town Planning and Rents Acts in their present form. "The Planning Act as it now stands," he remarked, "is unworkable, and is leading us into a morass." Urgent calls should be made for early amendment of both those Acts, and strongly worded resolutions, he urged, should be passed on these two measures. (*Loud Applause.*)

The President readily gave an assurance that these extremely important matters would receive the attention of the Council.

Mr. A. E. Miller (Newcastle-on-Tyne) paid a generous tribute to the work of Sir William W. Gibson on the Council. He went on to criticise delays in bringing on trials and the needless expense caused. Over and over again lists were prepared, and delays unexpectedly occurred in county courts, magistrates' courts, and other courts. Better arrangements should be made to avoid such delays and to prevent additional expense and waste of the valuable time of witnesses and the parties involved. The time had come when this urgently important matter should be raised and something done.

Nationalisation Risk

Mr. S. C. T. Littlewood, chairman of the Legal Aid Committee, stated that nationalisation, or anything approaching nationalisation, was a thing feared above everything else by their profession. "We always had to think about the risk there might be," he added. The Bill which had gone through was the surest bulwark against nationalisation that the profession could have. He paid a tribute to the Lord Chancellor. Nothing was put into this Bill without The Law Society being consulted about it.

In regard to costs of divorce cases, Mr. Littlewood said divorce was costly. This question of expense had loomed large in all districts, but he assured the delegates that the Society's representatives had had "a tremendous lot of their own way in this Bill." There was complete freedom from control of outside bodies in this divorce department. The Council had given an undertaking, proposed two years ago, that work of this kind would not be undertaken by The Law Society to the detriment of the private practitioner. The Lord Chancellor was aware of that undertaking and he knew of the Council's feelings on this matter.

Mr. R. A. Burrows (London) contended that divorce for poor persons should be dealt with as county court cases.

The "Gazette"

Mr. E. E. Morgan (Shrewsbury and Ludlow) spoke of the unattractiveness of the *Law Society's Gazette* in the past. But now, he said, it had taken a very distinct turn for the better, and he thanked Mr. W. C. Crocker for that. A 100 per cent. membership was wanted for The Law Society, and he urged that here the *Gazette* could greatly help. "If the *Gazette* is made interesting, useful, and a paper to look for," he added, "then you have got a very close link between new members and the Society."

Mr. Crocker replied that the matter of the *Gazette* was to be discussed the following morning in committee.

Mr. Cyril Styring (Sheffield) complained that the general public only "misappreciate" the attitude and activities of our profession. He suggested that the Society should obtain the services of people with literary ability and experience to write informative articles in a popular and interesting manner to correct a misguided public opinion. Popularly written articles of this kind could be read with pleasure and profit.

Mr. H. D. Darbishire (Liverpool) urged that to get new members of the Benevolent Association those who had retired from the profession should be requested to help. They ought to make a personal canvass, and he guaranteed a 100 per cent. return. He was glad the legal aid scheme was now being put into operation. But they should not stop there. The Council had done a great deal by having the accounts scheme and building up the scheme to help clients who had been defrauded. But much more could be done. He urged increasing steps to deal with the prevention of crime and also to raise the standards of honesty. "We ought to be in the forefront of that work," he added. A great deal could be done by voluntary work, and he had found it was most thrilling work.

Mr. T. G. Lund pointed out that the number of solicitors who default is microscopically small.

Mr. J. W. Parker (Brighton) advocated the setting up of a special committee to consider the working of the Town Planning Act and give special attention to the delays and other difficulties now experienced by solicitors. He would like to propose a resolution that such a special committee should be set up with power to make recommendations.

The President assured Mr. Parker and other delegates that this point and other similarly important ones would be fully considered.

Development Charges

Mr. E. H. Hiney (New Mills) suggested that the special committee should consider development assessment charges. There were tremendous variations in the charges in different parts of the country. The committee might also consider the question of appeal against the development charge assessed. There should be right of appeal to a court and to a judge, he thought. The Council might press for an amendment.

Mr. Roland Marshall, chairman of the Scale Committee, explained that the right of appeal was suggested in the House of Lords. It was strongly opposed and completely turned down. He promised to have a talk with Mr. Webster, chairman of the Parliamentary Committee, to see if anything could be done. "If there is this great difference in assessments throughout the country," he added, "that is wrong."

Mr. Arthur J. Driver, in reply to a question regarding examinations in provincial towns, said if there was a substantial demand and sufficient candidates the Examinations Committee would be glad to consider the matter and see what could be done.

This concluded Wednesday morning's conference proceedings, and in the afternoon the meeting went into committee to discuss the work of the Legal Aid, Finance and Professional Purposes Committees.

On the following day, Thursday, also in committee, the meeting discussed the work of the Scale, "Gazette" and Provincial Meetings Committees.

[A report of the Attorney-General's address on the Legal Aid and Advice Act, 1949, and of the final plenary session at which reports of the various committees were presented, will appear next week.]

Mr. J. R. Anthony, solicitor, of Worcester, left £1,650 gross, £1,491 net.

Mr. Thomas Smith Curtis, solicitor, of Highgate, left £242,163.

Mr. E. L. Digby, solicitor, of Eperstone, Notts., left £8,219.

Mr. Norman Dixon, solicitor, of Hull and Withernsea, left £13,840 gross, £10,958 net.

Mr. Frank Jewson, solicitor, of Norwich, left £55,771.

Mr. J. J. Oliver, retired solicitor, of Hawick, left £64,570.

NOTES OF CASES

COURT OF APPEAL

RENT RESTRICTION: GARAGE PART OF FLAT

Langford Property Co., Ltd. *v.* Batten

Bucknill, Cohen and Asquith, L.JJ. 21st July, 1949

Appeal from Croydon County Court.

On 1st September, 1939, a flat in a block, to which the Act of 1939 applied, was let by the defendant landlords to one person at £135 a year and a garage nearby in the block to another at 5s. a week. The flat and the garage having reverted to the possession of the landlords, they in January, 1946, granted a lease of both to the plaintiff at £175 a year for the first two years and £185 a year for the third, the lease expressly providing that the demised premises were entire and indivisible. When he took the lease the tenant was unaware of the earlier separate lettings, and when he became aware of them he instituted proceedings for the determination of the standard rent, contending that, under s. 3 (3) of the Act of 1939, the garage was to be deemed to be part of the flat so that the standard rent under the lease should be £135 a year. The landlords contended that the letting in 1946 was of a new dwelling-house consisting of the flat plus the garage, and that, as that was the first letting of that dwelling-house, the standard rent should be £185 a year. The county court judge accepted the tenant's contention. The landlords appealed. By s. 3 (3) of the Rent and Mortgage Interest Restrictions Act, 1939, " . . . for the purposes of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1938, as amended by virtue of this section, any land or premises let together with a dwelling-house shall, unless the land or premises so let consists or consist of agricultural land exceeding two acres in extent, be treated as part of the dwelling-house . . ."

COHEN, L.J.—BUCKNILL, L.J. agreeing—said that the effect of s. 3 (3) of the Act of 1939 was, on the principle in *Hemns* v. *Wheeler* [1948] 2 K.B. 61; 92 SOL. J. 194, to make the additional land or premises, consisting of the garage, part of the dwelling-house consisting of the flat only, so that the standard rent was rightly fixed at £135 a year. The material provision in s. 3 (3) of the Act of 1939 did not make a radical change in the law: it merely enlarged the effect of proviso (ii) to s. 12 (2) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, by in effect increasing the extent of the land or premises which were to be treated as part of a dwelling-house. The reasoning of the decision in *Hemns* v. *Wheeler* [1948] 2 K.B. 61; 92 SOL. J. 194, was accordingly applicable, although that decision concerned s. 12 (2) of the Rent Restriction Act of 1920. There was, in his opinion, no inconsistency between *Hemns* v. *Wheeler*, *supra*, and *Vaughan* v. *Shaw* [1945] K.B. 400, and decisions founded on the latter. The appeal should be dismissed.

ASQUITH, L.J., agreeing that the appeal should be dismissed, said that he had considerable difficulty in reconciling *Vaughan* v. *Shaw*, *supra*, with *Hemns* v. *Wheeler*, *supra*. The Court of Appeal, being free to follow either, should, he thought, follow the latter. Appeal dismissed.

APPEARANCES: *Beney*, K.C., and *Heathcote-Williams*, K.C. (*Stikeman & Co.*); *Lloyd-Jones*, K.C., and *Vester* (*R. Edler & Co.*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

DIVISIONAL COURT

ROAD TRAFFIC: NOTICE OF INTENDED PROSECUTION

Venn *v.* Morgan

Lord Goddard, C.J., Oliver and Stable, JJ. 27th July, 1949

Case stated by Cambridgeshire justices.

The defendant, while driving his motor car along a road in Cambridgeshire, was involved in an incident. He was not then warned under s. 21 (*a*) of the Road Traffic Act, 1930, of the possibility of his being prosecuted for careless driving, contrary to s. 12. Within fourteen days of the incident he received notice under s. 21 (*b*) stating " that it is intended to institute proceedings against you for an offence against s. 12 . . . namely, that you did drive a motor car " on the road and on the day, and at the time, in question. By a clerical error, words to the effect " without due care and attention " were omitted after the word motor car. It was contended for the prosecution that, having regard to the mention of s. 12, the notice was sufficient, though the actual offence was not mentioned. The justices held the notice insufficient. The prosecution now appealed.

LORD GODDARD, C.J., said that a kindred question had been considered in *Milner* v. *Allen* [1933] 1 K.B. 698; 77 SOL. J. 83. Though the police had made a clerical error which ought not to have been made, the court should, in deciding whether a notice of this kind was sufficient, use a modicum of common sense. The notice did tell the defendant that the prosecution would be under s. 12, and he could easily ascertain what the section was about: it created only one offence, that compendiously referred to in its marginal note, and in s. 21, as " careless driving." Section 21 only required the notice to specify *the nature of* the alleged offence. The notice was accordingly sufficient, and the appeal should be allowed.

OLIVER, J., agreed.

STABLE, J., dissenting, said that he would have reached the same conclusion as the justices. This was a criminal proceeding. The notice not only did not specify the nature of the alleged offence, but was in his opinion hopelessly misleading. Having regard to the tremendous complication of the law nowadays by statutory rules and orders, when a statute required the nature of an alleged offence to be stated it should be stated in terms which an ordinary layman could understand.

APPEARANCES: *R. E. Seaton* (*Field, Roscoe & Co.*, for *Ennions*, Newmarket); *Baerlein* (*Amery-Parkes & Co.*, for *Wild and Hewitson*, Cambridge).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

RECOVERY OF SMALL TENEMENTS: JUSTICES' DUTIES

Stott *v.* Smith

Lord Goddard, C.J., Oliver and Stable, JJ. 27th July, 1949

Case stated by Lancashire justices.

Chadderton Urban District Council, as landlords, served, by their town clerk, the appellant, on the respondent, the tenant of a house falling within the Small Tenements Recovery Act, 1838, due notice to quit. The tenant refused to vacate the premises on expiration of the notice, whereupon the town clerk duly notified him of his intention to apply to the justices for a warrant for possession. The tenant did not appear and was not represented at the hearing of the complaint. Notwithstanding the contention for the authority that, as all the formalities prescribed by the Act had been duly observed by them, the justices were obliged in law to issue a warrant as asked, the justices proposed to adjourn the case for a month, and, the adjournment having been refused by the town clerk, dismissed the summons on the grounds that they should have further time to consider the tenant's position in view of the difficulty in the way of his obtaining other accommodation and " that an Act over 100 years old did not enable justice to be done under present-day conditions." The town clerk appealed.

LORD GODDARD, C.J.—OLIVER and STABLE, JJ., agreeing—said that, as all the formalities under the Act of 1838 had been complied with, and as the Rent Restriction Acts did not apply to the tenancy (*Shelley and Harcourt* v. *London County Council* (1949), *ante*, p. 101; 47 L.G.R. 93), the justices had no alternative but to issue a warrant as prayed; that, as shown by *R.* v. *York Justices* (1949), *ante*, p. 183; 47 L.G.R. 289, they had no power to adjourn the case in the circumstances; and that their conduct in acting in defiance of the law as brought to their attention amounted in effect to a violation of their judicial oath. The justices had simply disregarded the authorities called to their attention. If they thought that the law required alteration it was for them to bring the matter before their Member of Parliament. The court regretted that it could not order them to pay the costs. Appeal allowed. Case remitted with direction to issue warrant.

APPEARANCES: *Backhouse* (*Lees & Co.*, for *The Town Clerk*, Chadderton); no appearance by or for the tenant.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

PROBATE, DIVORCE AND ADMIRALTY

CONDONATION: EVIDENCE TENDING TO BASTARDISE

Fackrell *v.* Fackrell and Clark

Wallington, J. 27th July, 1949

Petition for divorce.

The husband petitioned for divorce on the ground of the wife's alleged adultery. The wife denied adultery and pleaded condonation. The case is reported only on the question of the admissibility of evidence given by the husband in support of his denial of condonation. The effect of a finding of no condonation would have been to bastardise a child born to the wife. (*Cur. adv. vult.*)

WALLINGTON, J., having found the alleged adultery proved, said that a cleavage of judicial opinion had resulted from varying interpretations of the speeches in *Russell* v. *Russell* [1924] A.C. 687, where, however, the issue was the admissibility of bastardising evidence tendered to prove adultery. In *Ettenfield* v. *Ettenfield* [1940] P. 96, the evidence in question had been tendered for the purpose of establishing the wife's adultery. In *Glenister* v. *Glenister* [1945] P. 30, a Divisional Court was of opinion that bastardising evidence was admissible to refute a defence of condonation. In *Morris* v. *Morris* [1947] P. 108, Willmer, J., had expressed inability to accept that view. It was the duty of the court under s. 4 of the Matrimonial Causes Act, 1937, "to inquire, so far as it reasonably can, into the facts alleged and whether there has been any . . . condonation." It was inconceivable that in either *Russell* v. *Russell*, *supra*, or *Ettenfield* v. *Ettenfield*, *supra*, the admissibility of evidence tendered to refute an allegation of condonation could have been considered without full argument. It was impossible to contend that the present question of admissibility had been determined in either case. The duty of the court was to inquire "so far as it reasonably can." If he were precluded from receiving the evidence of either spouse because either the House of Lords or the Court of Appeal had decided as a matter of law that such evidence was inadmissible it could not be reasonable for him to receive it, and the court must therefore be deprived of the primary evidence on a matter which s. 4 indicated was one of deep concern to the community. He would not be justified in holding himself so bound in the absence of a clear decision by a court of superior authority on the precise issue after argument directed to the statutory requirement in s. 4. In his view it was the intention of the Legislature that the interests of the community would best be served and justice to the parties to a suit best be obtained only if the court were vigilant in performing its statutory duty to inquire as to the various matters set out in the statute, including that now in question. On the evidence, his lordship found that there had been condonation, and so dismissed the petition.

APPEARANCES: *St. J. Harmsworth* (*J. Cory Holcombe, Law Society, Services Divorce Department*); *Wilmers* (*A. M. V. Panton, Law Society, Services Divorce Department*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

COURT OF CRIMINAL APPEAL

COMMITTAL TO QUARTER SESSIONS FOR SENTENCE: "CONVICTED ON INDICTMENT"

R. *v.* Browes

Lord Goddard, C.J., Oliver and Stable, JJ.
15th July, 1949

Appeal against sentence.

The appellant was convicted by Leicester justices of larceny and committed to quarter sessions for sentence under s. 29 of the Criminal Justice Act, 1948. The recorder sentenced him to four years' corrective training under s. 21 (1), without, however, obtaining an admission by him of, or otherwise establishing, his previous convictions as required by s. 23 (1). By s. 22 (1), "Where a person is convicted on indictment of an offence punishable with imprisonment for a term of two years or more and that person (*a*) has" had previous convictions resulting in Borstal sentences, "the court, if it sentences him to a term of twelve months' imprisonment or more, shall, unless" there are special circumstances, order him to report to an appointed society for twelve months after his discharge from prison. On 21st June, 1949, the court allowed an appeal against the sentence of four years' corrective training because of the failure to establish the previous convictions in accordance with s. 23 (1), and substituted a sentence of imprisonment. The question now arose for argument whether in such circumstances there could be an order under s. 22 (1) in respect of the appellant, who contended that he was not "a person convicted on indictment."

LORD GODDARD, C.J., giving the judgment of the court, said that s. 22 (1) only applied where a person was "convicted on indictment," but by s. 29 (1) a new procedure had been introduced by which, although justices convicted a person summarily of an indictable offence, they might, if they thought that it was a case for a more severe sentence than they had power to inflict, send him forward to be sentenced by quarter sessions. By s. 29 (3): "Where an offender is so committed for sentence . . . (*a*) . . . quarter sessions . . . shall have power to deal with the offender in any manner in which he" could be dealt with by a court of quarter sessions before which he had just been convicted of the offence on indictment; and by para. (*b*) if quarter sessions passed a sentence which the justices would not have had power to pass the prisoner might appeal to the Court of Criminal Appeal. In the opinion of the court it was intended by s. 29 that, where a person was sent for sentence to quarter sessions then, although he had not in fact been convicted on indictment, he was for all purposes to be treated as if he had been convicted on indictment. After sentence by quarter sessions he had a certain right of appeal to the Court of Criminal Appeal against his sentence. Had he not been in the same position as a person who had been convicted on indictment he could not have done so. The appellant would therefore have been subject to s. 22 had s. 23 (1) been complied with: but as it had not he could not be ordered to report under s. 22, for the requirements of s. 23 (1) applied to s. 22 as well as to s. 21 (1). Appeal allowed.

APPEARANCES: *J. N. Watkins* (*Registrar, Court of Criminal Appeal*); *Maxwell Turner* (*Director of Public Prosecutions*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

SURVEY OF THE WEEK

STATUTORY INSTRUMENTS

Boot and Floor Polish Wages Council (Great Britain) (Constitution) Order, 1949. (S.I. 1949 No. 1735.)

Canned Fruit and Vegetables (Amendment No. 2) Order, 1949. (S.I. 1949 No. 1726.)

Cheese (Amendment No. 4) Order, 1949. (S.I. 1949 No. 1721.)

Control of Willow Rods and Willow Sticks (Revocation) Order, 1949. (S.I. 1949 No. 1701.)

Control of Wool (Revocation) Order, 1949. (S.I. 1949 No. 1730.)

Eggs (Great Britain) (Amendment No. 2) Order, 1949. (S.I. 1949 No. 1748.)

Eggs (Northern Ireland) (Amendment No. 2) Order, 1949. (S.I. 1949 No. 1749.)

Export of Goods (Control) (Amendment No. 6) Order, 1949. (S.I. 1949 No. 1716.)

Fats, Cheese and Tea (Rationing) (Amendment No. 5) Order, 1949. (S.I. 1949 No. 1720.)

Footwear (Supply, Marking and Manufacturers' Prices) (No. 2) Order, 1949 (Amendment) Order, 1949. (S.I. 1949 No. 1725.)

Furniture (Records and Miscellaneous Provisions) (Revocation) Order, 1949. (S.I. 1949 No. 1714.)

General Apparel (Manufacturers' Maximum Prices and Charges) Order, 1949. (S.I. 1949 No. 1702.)

General Apparel and Textiles (Distributors' Maximum Prices) Order, 1949. (S.I. 1949 No. 1703.)

General Hollow-Ware (Maximum Prices) (Amendment No. 2) Order, 1949. (S.I. 1949 No. 1715.)

Hairdressing Undertakings Wages Council (Great Britain) Wages Regulation Order, 1949.

Hairdressing Undertakings Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1949. (S.I. 1949 No. 1700.)

Milk (Non-Priority Allowance) (No. 4) Order, 1949. (S.I. 1949 No. 1727.)

Miscellaneous Goods (Maximum Prices) (Amendment No. 7) Order, 1949. (S.I. 1949 No. 1705.)

Miscellaneous Maximum Prices and Charges Orders (Revocation) Order, 1949. (S.I. 1949 No. 1711.)

Movement of Poultry Carcases from Orkney Islands (Regulation) Order, 1949. (S.I. 1949 No. 1731.)

National Galleries of Scotland (Disposal of Books and Pamphlets) Order, 1949. (S.I. 1949 No. 1736.)

North of Scotland Hydro-Electric Board (Audit) (Amendment) Regulations, 1949. (S.I. 1949 No. 1737.)

Pencils (Control of Manufacture and Supply) (Revocation) Order, 1949. (S.I. 1949 No. 1712.)

Perambulators (Maximum Prices) Order, 1949. (S.I. 1949 No. 1704.)

Prices of Goods (Price-Regulated Goods) (No. 3) Order, 1949. (S.I. 1949 No. 1713.)

Retail Food Trades Wages Council (England and Wales) Wages Regulation Order, 1949. (S.I. 1949 No. 1708.)

Retail Food Trades Wages Council (Scotland) Wages Regulation Order, 1949. (S.I. 1949 No. 1709.)

Safeguarding of Industries (Exemption) (No. 6) Order, 1949. (S.I. 1949 No. 1677.)

Seed Potatoes (Export) (Charges) Order, 1948 (Revocation) Order, 1949. (S.I. 1949 No. 1698.)

Seed Potatoes (1949 Crop) Order, 1949. (S.I. 1949 No. 1722.)

Smallholdings (Selection of Tenants) Regulations, 1949. (S.I. 1949 No. 1754.)

Stopping Up of Highways (Durham) (No. 2) Order, 1949. (S.I. 1949 No. 1719.)

Tynemouth Water Order, 1949. (S.I. 1949 No. 1718.)
Utility Footwear (Maximum Prices) (No. 2) (Amendment) Order, 1949. (S.I. 1949 No. 1724.)
Ware Potatoes (1949 Crop) (Restrictions on Sales) Order, 1949. (S.I. 1949 No. 1723.)
Wisbech Pilotage Order, 1949. (S.I. 1949 No. 1740.)

NON-PARLIAMENTARY PUBLICATIONS

Ministry of Town and Country Planning Circular No. 75.

This Circular advises local planning authorities as to the ways in which advertisements which they might be called upon to sanction may interfere with the safety of road and rail transport, etc. The addresses are given of the transport authorities with whom consultation should take place before permission to erect is given.

Ministry of Health Circular 90/49.

This Circular, addressed to housing authorities, gives a clause-by-clause explanation of the Housing Act, 1949. It also gives a full exposition of the conditions governing the making of grants for improvements to local authorities and by local authorities to private houseowners. Forms of application for improvement grants and notes for the guidance of applicants are also included.

NOTES AND NEWS

Honours and Appointments

Mr. JOHN HENWOOD-JONES, solicitor and deputy town clerk of Leatherhead U.D.C., has been appointed deputy town clerk of Colwyn Bay.

Mr. PHILIP B. HUNTER, solicitor, of Liverpool, has been appointed to the board of Cammell Laird & Co., Ltd.

Mr. K. B. MOORE, deputy town clerk of Rochdale, has been appointed town clerk in succession to Mr. G. F. Simmonds.

Professor D. HUGHES PARRY has been reappointed a Commissioner under the Requisitioned Land and War Works Act, 1945, and Sir THOMAS WILLIAMS PHILLIPS, G.B.E., K.C.B., has been reappointed chairman of the Commissioners.

The following appointments in the Colonial Legal Service are announced by the Colonial Office: Mr. W. E. M. DAWSON to be Crown Counsel, Tanganyika; Mr. T. V. A. BRODIE (Official Assigne, Federation of Malaya) to be Senior Federal Counsel, Federation of Malay; Mr. E. M. DUKE (Solicitor-General, British Guiana) to be Fifth Puisne Judge, Trinidad; Mr. P. M. HITCH (Registrar of the High Court, Nyasaland) to be Registrar-General, Nyasaland; Mr. E. N. GRIFFITH JONES (Magistrate and Crown Counsel, Federation of Malaya) to be Senior Federal Counsel, Federation of Malaya; Mr. E. I. G. UNSWORTH (Solicitor-General, Northern Rhodesia) to be Solicitor-General, Federation of Malaya; Mr. C. H. WHITTON (Magistrate, Federation of Malaya) to be Senior Federal Counsel, Federation of Malaya.

Personal Notes

Mr. C. Barratt, town clerk of Coventry, has been nominated a member of the Law Committee of the Association of Municipal Corporations.

Miss Mary Clarke, solicitor, of West Bromwich, recently addressed the Sutton Coldfield Soroptimists' Club on "The Law as a Career."

Mr. Walter H. Graham, solicitor, of Tywardreath and St. Austell, was married recently to Miss Hilda Garratt, his secretary for the past twelve years.

Mr. Ray Myring, Birmingham solicitor's clerk, has at the age of twenty been elected chairman of the National Members' Council of the National Association of Girls' Clubs and Mixed Clubs.

Miscellaneous

Mr. R. E. Megarry, M.A., LL.B., Barrister-at-Law, will give an address on the principal changes and cases affecting the Law of Rent Restrictions since 1939, and on the Landlord and Tenant (Rent Control) Act, 1949, to members of the Chartered Auctioneers' and Estate Agents' Institute, at 29 Lincoln's Inn Fields, London, W.C.2, on Thursday, 6th October, 1949, at 6 p.m.

By the County Court Districts (Southend and Brentwood Reconstitution) Order, 1949 (S.I. 1949 No. 1752 (L.18)), which comes into operation on 1st October, the Southend County Court and Brentwood County Court are reconstituted and have concurrent jurisdiction to deal with any proceedings pending in the Southwood and Brentwood County Court on that date, when the County Court Districts (Southend and Brentwood) Order, 1948, which consolidated the districts, is revoked.

By the County Court Districts (Thirsk) Order, 1949 (S.I. 1949 No. 1757 (L.19)), the Thirsk County Court is discontinued and its district consolidated with that of Northallerton County Court with effect from the 1st October.

We have been asked to republish the following notice, to which attention was drawn at 93 SOL. J. 154:—

Section 9 Administration of Estates Act, 1925
NOTICE TO QUIT

When an estate has vested in the President of the Probate, Divorce and Admiralty Division, and it is necessary to serve on him a Notice to Quit, the Notice should be sent by post to The Treasury Solicitor, Storey's Gate, St. James's Park, London, S.W.1.

H. A. de C. PEREIRA,
8th March, 1949. *Senior Registrar.*

The General Council of the Bar announces that on the occasion of the reopening of the Law Courts on Wednesday, 12th October, 1949, a Special Service will be held at 11.30 a.m. in Westminster Abbey, at which the Lord Chancellor and His Majesty's Judges will attend. Barristers attending the Service must wear robes. All should be at the Jerusalem Chamber, Westminster Abbey (Dean's Yard Entrance), where robing accommodation will be provided, not later than 11.15 a.m. The South Transept is reserved for friends of members of the Bar and a limited number of tickets of admission are issued. Two of these tickets will be issued to each member of the Bar whose application is received by the Secretary of the General Council of the Bar, 5 Stone Buildings, Lincoln's Inn, W.C.2, not later than Friday, 7th October. No tickets are required for admission to the North Transept, which is open to the public.

SHORT COURSES ON INDUSTRIAL LAW

In view of the great demand for tickets for both the October and the November short courses on Industrial Law, by Mr. Harry Samuels, Barrister-at-Law, the Industrial Welfare Society have arranged a further course to be given by Mr. Harry Samuels on Tuesdays, 10th, 17th, 24th and 31st January, at the Society's headquarters, at 48 Bryanston Square, W.1. Application for tickets—£1 1s. (members), £1 10s. (non-members)—should be made to the secretary.

OBITUARY

MR. T. H. HOSEGOOD

Mr. T. H. Hosegood, solicitor, of Minehead, died recently while on holiday at Teignmouth, aged 69. Admitted in 1902, he was at the time of his death vice-president of the Minehead Publicity Association, of which he was a founder-member and had been chairman for eleven years.

MR. E. A. PHILLIPS, O.B.E.

Mr. Edgar Aneurin Phillips, O.B.E., Registrar of the District Probate Registry at Llandaff since 1935, died at his home near Cardiff on 19th September, at the age of 61. He was the author of several well-known practice books, including "Probate and Estate Duty Practice" and "Practice of the Divorce Division," and had been an occasional contributor to this journal.

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